

ORDINANCE NO. 2017-3

**AN ORDINANCE OF THE VILLAGE OF KEY BISCAYNE,
FLORIDA, REPEALING AND REPLACING CHAPTER 10,
“FLOODS” RELATING TO THE VILLAGE’S
FLOODPLAIN MANAGEMENT REGULATIONS;
PROVIDING FOR CODIFICATION; PROVIDING FOR
SEVERABILITY; PROVIDING FOR CONFLICTS;
PROVIDING FOR TRANSMITTAL; AND PROVIDING FOR
AN EFFECTIVE DATE**

WHEREAS, the Legislature of the State of Florida has, in Chapter 166 – Municipalities, Florida Statutes, conferred upon local governments the authority to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry; and

WHEREAS, the Federal Emergency Management Agency has identified special flood hazard areas within the boundaries of the Village of Key Biscayne (“Village”) and such areas may be subject to periodic inundation which may result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare; and

WHEREAS, the Village was accepted for participation in the National Flood Insurance Program and the Village Council desires to continue to meet the requirements of Title 44 Code of Federal Regulations, Sections 59 and 60, necessary for such participation; and

WHEREAS, Chapter 553, Florida Statutes, was adopted by the Florida Legislature to provide a mechanism for the uniform adoption, updating, amendment, interpretation and enforcement of a state building code, called the *Florida Building Code*; and

WHEREAS, the Village Council previously adopted a requirement to require accumulation of costs of improvements and repairs of buildings over specific periods of time and is repealing that requirement; and

WHEREAS, for the purpose of participating in the National Flood Insurance Program’s Community Rating System and in an effort to conform to pursuant to Chapter 8, Article III of the Miami-Dade County Code and section 553.73(5), Florida Statutes, the Village Council is, among other things, adopting the following requirements and coordinating these requirements with the *Florida Building Code*: (1) a requirement to increase the minimum base flood elevation requirement for buildings and structures in flood hazard areas; (2) a requirement to reduce the

threshold for substantial improvement and substantial damage from 50% to 49%; (3) a designation of the Coastal A Zone areas and a requirement to regulate such areas as coastal high hazard areas; and (4) a requirement for all dwellings to have foundations designed by a registered design professional; and

WHEREAS, the Village Council has determined that it is in the public interest to adopt the proposed floodplain management regulations that are coordinated with the *Florida Building Code*; and

WHEREAS, the Village Council finds that adoption of this Ordinance is in the best interest and welfare of the Village and its residents.

NOW, THEREFORE, IT IS HEREBY ORDAINED BY THE VILLAGE COUNCIL OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, AS FOLLOWS¹:

Section 1. **Recitals.** That the above recitals are true and correct and incorporated herein by this reference.

Section 2. **Repeal and Replacement of Chapter 10.** That Chapter 10 of the Code of Key Biscayne, Florida, is hereby repealed in its entirety as set forth in Exhibit “A” attached hereto and incorporated herein and replaced as set forth in Exhibit “B” attached hereto and incorporated herein.

Section 3. **Codification.** That it is the intent of the Village Council that the provisions of this ordinance shall become and be made a part of the Village’s Code of Ordinances, and that the sections of this Ordinance may be renumbered or relettered and the word “ordinance” may be changed to “section,” “article,” “regulation,” or such other appropriate word or phrase in order to accomplish such intentions.

Section 4. **Severability.** That the provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 5. **Conflicts.** All ordinances or parts of ordinances, resolutions or parts of

¹ Coding: ~~Strikethrough words~~ are deletions to the existing words. Underlined words are additions to the existing words. Changes between first and second reading are indicted with **highlighted double-strikethrough and double underline**.

resolutions, in conflict herewith, are repealed to the extent of such conflict.

Section 6. **Effective Date.** That this Ordinance shall be effective three months after adoption on second reading.

PASSED on first reading this 18th day of April, 2017.

PASSED AND ADOPTED on second reading this 19th day of June, 2017.


MAYOR MAYRA PEÑA LINDSAY

ATTEST:


CONCHITA H. ALVAREZ, MMC, VILLAGE CLERK



APPROVED AS TO FORM AND LEGAL SUFFICIENCY


VILLAGE ATTORNEY

EXHIBIT A

Chapter 10—FLOODS^(H)

Footnotes:

—(1)—

Cross reference—Buildings and building regulations, ch. 6; planning, ch. 20; zoning, ch. 30.

ARTICLE I.—IN GENERAL

Secs. 10-1—10-20.—Reserved.

ARTICLE II.—FLOOD DAMAGE PREVENTION

DIVISION 1.—GENERALLY

Sec. 10-21.—Definitions.

Unless otherwise expressly stated, the following words and terms shall, for the purposes of this article, have the meanings shown in this section. Where terms are not defined in this article and are defined in the Florida Building Code, such terms shall have the meanings ascribed to them in the Florida Building Code. Where terms are not defined in this article or the Florida Building Code, such terms shall have ordinarily accepted meanings such as the context implies.

Accessory Structure means a Structure, which is on the same lot of property as the principal Structure and the use of which is incidental to the use of the principal Structure.

ASCE 24 means the standard titled *Flood Resistant Design and Construction* that is referenced by the Florida Building Code. ASCE 24 is developed and published by the American Society of Civil Engineers, Reston, VA.

Base Flood means a Flood having a one percent chance of being equaled or exceeded in any given year. The Base Flood is commonly referred to as the "100-year Flood" or the "1-percent-annual chance Flood."

Base Flood Elevation means the elevation, including wave height, relative to the National Geodetic Vertical Datum (NGVD), North American Vertical Datum (NAVD) or other datum specified on the Flood Insurance Rate Map (FIRM), for which there is a one percent chance in any given year that Flood levels will equal. The Base Flood Elevations are indicated on the Village Flood Insurance Rate Map (FIRM).

Basement means any area of a Building having its Floor subgrade (below ground level) on all sides.

Breakaway Wall means a wall that is not part of the structural support of the Building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the Building or supporting foundation system.

Building shall have the meaning as defined in the current edition of the Florida Building Code.

Building Official means the officer or other designated authority charged with the administration and enforcement of the Florida Building Code, or a duly authorized representative.

Building Permit means an official document or certificate issued by the Village which authorizes performance of specific activities that are determined to be compliant with the Florida Building Code.

~~*Coastal Construction Control Line* means the line established by the State of Florida pursuant to F.S. § 161.053, and recorded in the official records of the Village, which defines that portion of the beach-dune system subject to severe fluctuations based on a 100-year storm surge, storm waves or other predictable weather conditions.~~

~~*Coastal High Hazard Area* means an Area of Special Flood Hazard extending from off-shore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action caused by, but not limited to, storms or seismic sources. The area is designated on a FIRM as zone VI-30, VE or V.~~

~~*Design Flood* means the Flood associated with the greater of the following two areas:~~

- ~~(1) Area with a Floodplain subject to a 1-percent or greater chance of Flooding in any year;~~
~~or~~
- ~~(2) Area designated as a Flood Hazard Area on the Village's FIRM, or otherwise legally designated.~~

~~*Design Flood Elevation* means the elevation of the "Design Flood," including wave height, relative to the datum specified on the Village's FIRM. In areas designated as Zone AO, the Design Flood Elevation shall be the elevation of the highest existing grade of the Building's perimeter plus the depth number (in feet) specified on the FIRM. In areas designated as Zone AO where the depth number is not specified on the map, the depth number shall be taken as being equal to two feet.~~

~~*Development or Development Activity* means any manmade change to improved or unimproved real estate, including but not limited to Buildings or other Structures, mining, dredging, filling, grading, paving, excavating, drilling operations, or storage of materials or equipment or any other land-disturbing activity.~~

~~*Development Permit* means any Building Permit, zoning permit, subdivision approval, rezoning, recertification, special exception, Variance or any other official action of the Village having the effect of permitting the Development of land.~~

~~*Elevated Building* means a nonbasement Building built to have the Lowest Floor elevated above the ground level by means of, solid foundation perimeter walls, pilings, columns (posts and piers) or shear walls.~~

~~*Existing Building and Existing Structure* means any Buildings and Structures for which the Start of Construction commenced before January 29, 1972.~~

~~*Flood or Flooding* means a general and temporary condition of partial or complete inundation of normally dry land areas from:~~

- ~~(1) The overflow of inland or tidal water;~~
- ~~(2) Abnormally high tidal water or rising coastal waters resulting from severe storms, hurricanes or tsunamis; or~~
- ~~(3) The unusual and rapid accumulation or runoff of surface water from any source.~~

~~*Flood Damage-Resistant Materials* means any construction material capable of withstanding direct and prolonged contact with Flood waters without sustaining any damage that requires more than cosmetic repair.~~

~~*Flood Insurance Rate Map (FIRM)* means the official map of a community on which the Federal Emergency Management Agency has delineated both the Special Flood Hazard Areas and the risk premium zones applicable to the community.~~

~~*Flood Insurance Study* means the official report provided by the Federal Emergency Management Agency. The report contains Flood FIRM profiles, as well as the water surface elevation of the Base Flood and supporting technical data.~~

~~*Floodplain or Flood Hazard Area* means the greater of the following two areas:~~

- ~~(1) The area within a floodplain subject to a 1 percent or greater chance of flooding in any year;~~
- ~~(2) The area designated as a flood hazard area on the Village's flood hazard map, or otherwise legally designated.~~

~~*Floodplain Administrator* means the office or position designated and charged with the administration and enforcement of this article (may be referred to as the Floodplain Manager).~~

~~*Floodplain Development Permit or Approval* means an official document or certificate issued by the Village, or other evidence of approval or concurrence, which authorizes performance of specific Development activities that are located in Flood Hazard Areas and that are determined to be compliant with this article.~~

~~*Floodproofing* means any combination of structural and nonstructural additions, changes or adjustments (other than elevating) to Nonresidential Structures, which reduce or eliminate Flood damage to real estate or improved real property, water supply and sanitary sewage facilities, Structures, and their contents.~~

~~*Functionally Dependent Use* means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities.~~

~~*Historic Building or Structure* means any Structure that is determined eligible for the exception to the Flood Hazard Area requirements of the Florida Building Code, *Existing Building*, Chapter 11 Historic Buildings and:~~

- ~~(1) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;~~
- ~~(2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;~~
- ~~(3) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or~~
- ~~(4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - ~~a. By an approved state program as determined by the Secretary of the Interior; or~~
 - ~~b. Directly by the Secretary of the Interior in states without approved programs.~~~~

~~*Letter of Map Change (LOMC)* means an official determination issued by FEMA that amends an effective Flood Insurance Rate Map or Flood Insurance Study. Letters of Map Change include:~~

~~*Letter of Map Amendment (LOMA).* An amendment based on technical data showing that a property was incorrectly included in a designated Special Flood Hazard Area. A LOMA amends the current effective Flood Insurance Rate Map and establishes that a specific property, portion of a property, or Structure is not located in a Special Flood Hazard Area.~~

~~*Letter of Map Revision (LOMR).* A revision based on technical data that may show changes to Flood zones, Flood elevations, Special Flood Hazard Area boundaries and floodway delineations, and other planimetric features.~~

~~*Letter of Map Revision Based on Fill (LOMR-F).* A determination that a Structure or parcel of land has been elevated by fill above the Base Flood Elevation is, therefore, no longer located within the Special Flood Hazard Area. In order to qualify for this determination, the fill must have been permitted and placed in accordance with the Village's floodplain management regulations.~~

~~*Conditional Letter of Map Revision (CLOMR).* A formal review and comment as to whether a proposed Flood protection project or other project complies with the minimum NFIP requirements for such projects with respect to delineation of Special Flood Hazard Areas. A CLOMR does not revise the effective Flood Insurance Rate Map or Flood Insurance Study; upon submission and approval of certified as built documentation, a Letter of Map Revision may be issued by FEMA to revise the effective FIRM.~~

~~*Lowest Floor* means the Lowest Floor of the lowest enclosed area of a Building or Structure (including Basement). An unfinished or Flood-resistant enclosure, usable solely for parking of vehicles, Building access or limited storage in an area other than a Basement area is not considered a Building's Lowest Floor; provided that such enclosure is not built so as to render the Structure in Violation of the applicable nonelevation design requirements of this article and the latest edition of the Florida Building Code or ASCE 24.~~

~~*Mangrove Stand* means an assemblage of mangrove trees which consist of one or more of the following species: black mangrove (*Avicennia Germinans*); red mangrove (*Rhizophora Mangle*); white mangrove (*Languncularia Racemosa*) and buttonwood (*Conocarpus Erecta*).~~

~~*Market Value* means the price at which a property will change hands between a willing buyer and a willing seller, neither party being under compulsion to buy or sell and both having reasonable knowledge of relevant facts. As used in this article, the term refers to the Market Value of Buildings and Structures, excluding the land and other improvements on the parcel. Market Value may be established by a qualified independent appraiser, actual cash value (replacement cost depreciated for age and quality of construction), or tax assessment value adjusted to approximate Market Value by a factor provided by the Property Appraiser.~~

~~*Mean Sea Level* means the average height of the sea for all stages of the tide. It is used as a reference for establishing various elevations within the Floodplain. For purposes of this article, the term is synonymous with National Geodetic Vertical Datum (NGVD) (as corrected in 1929) or North American Vertical Datum (NAVD) (as corrected in 1988), which means a vertical control used as a reference for establishing varying elevations within a Floodplain.~~

~~*New Construction* means any Structure for which the Start of Construction commenced on or after January 29, 1972. The term also includes any subsequent improvements to the Structure.~~

~~*Nonresidential* means any Building or Structure or portion thereof that is not classified Residential in accordance with the Florida Building Code, Building (Residential Group R or Institutional Group I) and ASCE 24.~~

~~*Recreational Vehicle* means a vehicle which is:~~

- ~~(1) Built on a single chassis;~~
- ~~(2) 400 square feet or less when measured at the largest horizontal projection;~~
- ~~(3) Designed to be self-propelled or permanently towable by a light duty truck, as defined in 40 C.F.R. 86.082-2; and~~
- ~~(4) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.~~

~~*Residence or Residential* means any lot, plot, parcel, tract, area, piece of land or Building used exclusively for family dwelling purposes or intended to be so used, including concomitant uses as specified in the prevailing land development regulations of the Village, and classified as Residential in accordance with the Florida Building Code, Building (Residential Group R or Institutional Group I) and ASCE 24.~~

~~*Sand Dunes* means naturally occurring accumulations of sand in ridges or mounds landward of the beach.~~

~~*Special Flood Hazard Area* means an area in the Floodplain subject to a one percent or greater chance of flooding in any given year. Special Flood Hazard Areas are shown on the Flood Insurance Rate Map as Zone A, AO, A1-A30, AE, A99, AH, V1-V30, VE and V. This comprises the entirety of the Village.~~

~~*Start of Construction* (for other than New Construction or Substantial Improvements under the Coastal Barrier Resources Act (P.L. 97-348)) includes Substantial Improvement, and means the date the Building Permit was issued, provided the actual Start of Construction, repair, reconstruction, rehabilitation, addition, placement or other improvement was within 180 days of the permit date. The actual Start of Construction means the first placement of permanent construction of a Building on a site, such as the pouring of slabs or footings, installation of piles, construction of columns, or any work beyond the stage of excavation. Permanent construction does not include land preparation, such as clearing, grading and filling; the installation of streets and/or walkways; excavation for a Basement, footings, piers or foundations or the erection of temporary forms; or the installation on the property of Accessory Structures, such as garages or sheds not occupied as dwelling units or not part of the main Building.~~

~~*Structure* means a walled and roofed Building that is principally above ground, including a gas or liquid storage tank.~~

~~*Substantial Damage* means damage of any origin sustained by a Structure whereby the cost of restoring the Structure to its before-damaged condition would equal or exceed 50 percent of the Market Value of the Structure before the damage occurred.~~

~~*Substantial Improvement* means any combination of additions, rehabilitation, repair, reconstruction, alteration, or other improvements to a Structure, taking place during a one-year period in the "A" zones and a five-year period in the "V" zones, in which the cumulative cost~~

equals or exceeds 50 percent of the Market Value of the Structure before the Start of Construction of the improvement.

~~"Substantial Improvement" is considered to occur when the first alteration of any wall, ceiling, Floor, or other structural part of the Building commences, whether or not that alteration affects the external dimensions of the Structure. This term includes Structures which incur Substantial Damage regardless of actual work performed. The term does not include any project for improvement of a Structure required to correct existing Violations of State or local health, sanitary or safety code specifications which have been identified by the local Code Enforcement Official and which are the minimum necessary to assure safe living conditions.~~

~~Variance means a grant of relief from the requirements of this article.~~

~~Violation means the failure of a Structure or other Development to be fully compliant with the provisions of this article. A Structure or other Development without the elevation certificate, Floodproofing certificate, other certifications, or other evidence of compliance required of this article is considered to be in Violation until such certificate and documentation is submitted in a format satisfactory to the Building Official.~~

~~(Ord. No. 93-2, § 1(5), 1-5-93; Ord. No. 2012-6, § 2, 5-8-12)~~

~~Sec. 10-22. Statutory authority and legislative findings.~~

- ~~(a) The Legislature of the State of Florida has in F.S. chs. 166 and 163 granted to local governmental units, including the Village, the power, authority and responsibility to adopt regulations designed to promote the public health, safety and general welfare, as well as to adopt Development regulations controlling the use of land.~~
- ~~(b) The Flood Hazard Areas of the Village are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for Flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.~~
- ~~(c) The Flood losses described in subsection (b) are caused by the cumulative effect of obstructions in Floodplains causing increases in Flood heights and velocities, and by the occupancy in Flood Hazard Areas by uses vulnerable to Floods or hazardous to other lands which are inadequately elevated, Floodproofed, or otherwise unprotected from Flood damages.~~

~~(Ord. No. 93-2, § 1(2), 1-5-93; Ord. No. 2012-6, § 2, 5-8-12)~~

~~Sec. 10-23. Intent and purpose.~~

~~It is the purpose of this article to promote the public health, safety and general welfare and to minimize public and private losses due to Flood conditions in specific areas by provisions designed to:~~

- ~~(1) Restrict or prohibit uses which are dangerous to health, safety and property due to water or erosion hazards, or which result in damaging increases in erosion or in Flood heights or velocities;~~

- ~~(2) Require that uses vulnerable to Floods, including facilities which serve such uses, be protected against Flood damage at the time of initial construction or Substantial Improvement;~~
- ~~(3) Control the alteration of natural Floodplains and natural protective barriers which are involved in the accommodation of Flood waters;~~
- ~~(4) Control filling, grading, dredging, paving, excavation and other Development which may increase erosion or Flood damage; and~~
- ~~(5) Prevent or regulate the construction of Flood barriers which will unnaturally divert Flood waters or which may increase Flood hazards to other lands.~~

~~(Ord. No. 93-2, § 1(3), 1-5-93; Ord. No. 2012-6, § 2, 5-8-12)~~

~~Sec. 10-24.—Objectives.~~

~~The objectives of this article are to:~~

- ~~(1) Protect human life and health;~~
- ~~(2) Minimize expenditure of public money for costly Flood control projects;~~
- ~~(3) Minimize the need for rescue and relief efforts associated with Flooding and generally undertaken at the expense of the general public;~~
- ~~(4) Minimize prolonged business interruptions;~~
- ~~(5) Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in Floodplains;~~
- ~~(6) Help maintain a stable tax base by providing for the sound use and Development of Floodprone Areas in such a manner as to minimize Flood-blight areas;~~
- ~~(7) Ensure that potential home buyers are notified that property is in a Flood area; and~~
- ~~(8) Comply with the requirements of the National Flood Insurance Program for community participation as set forth in the Title 44 Code of Federal Regulations, Section 59.22, so as to ensure the availability of Flood insurance for residents and property owners.~~

~~(Ord. No. 93-2, § 1(4), 1-5-93; Ord. No. 2012-6, § 2, 5-8-12)~~

~~Sec. 10-25.—Lands to which this article applies.~~

~~This article shall apply to all areas within the Village.~~

~~(Ord. No. 93-2, § 1(6A), 1-5-93; Ord. No. 2012-6, § 2, 5-8-12)~~

~~Sec. 10-26.—Basis for establishing the Special Flood Hazard Areas.~~

~~The Special Flood Hazard Areas identified by the Federal Emergency Management Agency in its Flood Insurance Study and Flood Insurance Rate Map for Miami-Dade County, Florida, dated September 11, 2009, with accompanying maps and other supporting data, and any amendments and revisions thereto, are adopted by reference and declared to be a part of this article. All lands within the Village are within a Special Flood Hazard Area.~~

~~(Ord. No. 93-2, § 1(6B), 1-5-93; Ord. No. 2012-6, § 2, 5-8-12)~~

~~Sec. 10-27. Development Permits required.~~

~~In addition to compliance with all other requirements of the Village Code of Ordinances and Chapter 30 (the "Zoning Code"), a Floodplain Development Permit shall be required in conformance with the provision of this article prior to the commencement of any Development Activities.~~

~~(Ord. No. 93-2, § 1(6C), 1-5-93; Ord. No. 2012-6, § 2, 5-8-12)~~

~~Sec. 10-28. Compliance required.~~

~~No Development Activity shall occur without full compliance with the terms of this article and other applicable regulations.~~

~~(Ord. No. 93-2, § 1(6D), 1-5-93; Ord. No. 2012-6, § 2, 5-8-12)~~

~~Sec. 10-29. Abrogation and greater restrictions.~~

~~This article is not intended to repeal, abrogate, or impair any existing easements, covenants or deed restrictions. Where this article and an easement, covenant or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail. This article supersedes any article in effect for management of Development in Special Flood Hazard Areas. However, it is not intended to repeal or abrogate any existing ordinances including land development regulations, zoning ordinances, stormwater management regulations, and the Florida Building Code. Where there is a conflict between a general requirement and a specific requirement, the specific requirement shall be applicable, provided that the Florida Building Code, as amended through the local technical amendments of Article III "Florida Building Code" of Chapter 8 "Building Code" of the Miami-Dade County Code of Ordinances, shall be applicable in the event of a conflict with any requirement of this article.~~

~~(Ord. No. 93-2, § 1(6E), 1-5-93; Ord. No. 2012-6, § 2, 5-8-12)~~

~~Sec. 10-30. Interpretation.~~

~~In the interpretation and application of this article, all provisions shall be:~~

- ~~(1) Considered as minimum requirements;~~
- ~~(2) Liberally construed in favor of the governing body; and~~
- ~~(3) Deemed neither to limit nor repeal any other powers granted under State statutes.~~

~~(Ord. No. 93-2, § 1(6F), 1-5-93; Ord. No. 2012-6, § 2, 5-8-12)~~

~~Sec. 10-31. Coordination with the Florida Building Code.~~

~~Pursuant to the requirements established in F.S. § 553.73, that local governments administer and enforce the Florida Building Code, the Village Council does hereby acknowledge that the Florida Building Code, as amended through the local technical amendments of Article III "Florida Building Code" of Chapter 8 "Building Code" of the Miami-Dade County Code of Ordinances, contains certain provisions that apply to the design and construction of Structures in Flood Hazard~~

~~Areas. Therefore, this article is intended to be administered and enforced in conjunction with the Florida Building Code as amended through the local technical amendments of Article III "Florida Building Code" of Chapter 8 "Building Code" of the Miami Dade County Code of Ordinances. Where section numbers of the Florida Building Code are cited, the section numbers refer to the latest edition of the Florida Building Code, as amended. If cited section numbers are changed in subsequent editions of the Florida Building Code, then the section numbers shall refer to comparable sections. Where cited, ASCE 24 refers to the edition of the standard that is referenced by the Florida Building Code.~~

~~(Ord. No. 2012-6, § 2, 5-8-12)~~

~~Sec. 10-32. Warning and disclaimer of liability.~~

~~The degree of Flood protection required by this article and the Florida Building Code, as amended, is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger Floods can and will occur on rare occasions. Flood heights may be increased by manmade or natural causes. This article shall not create liability on the part of the Village or by any officer or employee thereof for any Flood damages that result from reliance on this article or any administrative decision lawfully made thereunder.~~

~~(Ord. No. 93-2, § 1(6G), 1-5-93; Ord. No. 2012-6, § 2, 5-8-12)~~

Editor's note—Ord. No. 2012-6, § 2, adopted May 8, 2012, amended the Code by renumbering former § 10-31 as a new § 10-32.

~~Sec. 10-33. Penalties for Violation of Article.~~

~~Violation of the provisions of this article or failure to comply with any of its requirements, including Violation of conditions and safeguards established in connection with grants of a Variance, shall constitute a misdemeanor. Any person who violates this article or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than \$500.00 or imprisoned for not more than 60 days, or both, and in addition, shall pay all costs and expenses involved in the case. Each day such Violation continues shall be considered a separate offense. Nothing contained in this section shall prevent the Village from taking such other lawful actions as are necessary to prevent or remedy any Violation.~~

~~(Ord. No. 93-2, § 1(6H), 1-5-93; Ord. No. 2012-6, § 2, 5-8-12)~~

Editor's note—Ord. No. 2012-6, § 2, adopted May 8, 2012, amended the Code by renumbering former § 10-32 as a new § 10-33.

~~Secs. 10-34—10-40. Reserved.~~

~~DIVISION 2. ADMINISTRATION~~

~~Sec. 10-41. Designation of Floodplain Administrator.~~

~~The Building Official or his or her designee is hereby appointed as the Floodplain Administrator to administer and implement the provisions of this article. Whenever the term~~

"Building Official" is used in this article, it is intended to include any designee. The Floodplain Administrator may delegate performance of certain duties to other employees.

(Ord. No. 93-2, § 1(7A), 1-5-93; Ord. No. 2012-6, § 3, 5-8-12)

Sec. 10-42.— Permit procedures for Building construction.

Application for a Development Permit for constructing or Substantially Improving a Structure shall be made to the Building Official on forms furnished by the Building Official's office prior to any Development Activities, and may include, but not be limited to, the following plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question, existing or proposed Structures, earthen fill, storage of materials or equipment, drainage facilities, and the location of the foregoing. Specifically, the following information is required:

(1) Application stage.

- a.— Elevation in relation to Mean Sea Level of the proposed Lowest Floor, or the lowest surface of any heating or air conditioning duct work installed below the Lowest Floor, or the lowest horizontal supporting member in a Coastal High Hazard Area (V-zone), of all proposed New Construction and Substantial Improvements;
- b.— Elevation in relation to Mean Sea Level to which any proposed Building or Substantial Improvement, not located in a Coastal High Hazard Area (V-zone), will be Floodproofed;
- c.— Signed, sealed certificate, separate from the submitted plans, from a registered professional engineer or architect that the Floodproofed Building will meet the Floodproofing criteria in this article;
- d.— Signed, sealed certificate, separate from the submitted plans, from a registered professional engineer or architect that a new or Substantially Improved Building located in the Coastal High Hazard Area (V-zone) will meet the construction standards contained in section 10-63;
- e.— Description of the type, extent and depth of proposed fill and the elevation in relation to Mean Sea Level of the top surface of the fill;
- f.— Description of the type, extent and depth of proposed excavation in relation to Mean Sea Level;
- g.— Plot plan, drawn to scale, illustrating the locations of all proposed construction, fill, excavating, and other aspects of the Development;
- h.— Copy of the proposed stormwater management report and Floodplain study, if any, complete with technical supporting data;
- i.— Grading and drainage plans; and
- j.— Upon request, stormwater management plans.
- k.— When additional hydrologic, hydraulic or other engineering data, studies, and additional analyses are submitted to support an application, the applicant has the right to seek a Letter of Map Change from FEMA to change the Base Flood Elevations, change floodway boundaries, or change boundaries of Flood Hazard Areas shown

on FIRMs, and to submit such data to FEMA for such purposes. The analyses shall be prepared by a Florida licensed engineer in a format required by FEMA. Submittal requirements and processing fees shall be the responsibility of the applicant.

~~(2) Construction stage.~~

- ~~a. Upon placement of the Lowest Floor, or, in the Coastal High Hazard Areas (V-zones), upon placement of the horizontal structural members of the Lowest Floor, whichever is applicable, it shall be the duty of the permit holder to submit to the Building Official a certification of the elevation of the top of the Lowest Floor, or the lowest surface of any heating or air conditioning duct work installed below the Lowest Floor, or the elevation of the lowest portion of the horizontal structural members of the Lowest Floor, whichever is applicable, as built, in relation to Mean Sea Level. Such certification shall be made on a FEMA elevation certificate form 81-31, or a form containing at least the same information, and shall be prepared by or under the direct supervision of a registered land surveyor or professional engineer.~~
- ~~b. When Floodproofing is utilized for a Building, the permit holder shall submit to the Building Official a Floodproofing certification at the time the exterior walls are completed to the required Floodproofed elevation. Such certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by the professional engineer or architect, utilizing the FEMA Floodproofing certificate form 81-65, along with the design, operation, and maintenance plans.~~
- ~~c. Any additional work undertaken prior to submission and approval of the certification shall be at the permit holder's risk.~~
- ~~d. The Building Official shall review the Floor elevation survey data or Floodproofing certification submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further progressive work being permitted to proceed.~~
- ~~e. Failure to submit the elevation or Floodproofing certifications or failure to make the corrections required by this article shall be cause to issue a stop work order for the project or if completed, a revocation of the "Certificate of Completion or Occupancy."~~
- ~~f. Prior to issuance of a certificate of occupancy for New Construction or Substantial Improvement in the Coastal High Hazard Area (V-zones), the permit holder shall submit a signed, sealed certificate, separate from the submitted plans, from a registered professional engineer or architect certifying that the Building has been constructed in compliance with the standards contained in section 10-63. A certificate of occupancy will not be issued until this certification has been received and accepted by the Building Official.~~

~~(Ord. No. 93-2, § 1(7B), 1-5-93; Ord. No. 2012-6, § 3, 5-8-12)~~

~~Sec. 10-43.—Duties and responsibilities of the Floodplain Administrator.~~

~~The Building Official, as the Floodplain Administrator, is authorized and directed to administer and enforce the provisions of this article. The Building Official shall have the authority to render interpretations of this article consistent with the intent and purpose of this article and may establish policies and procedures in order to clarify the application of its provisions. Such interpretations, policies, and procedures shall not have the effect of waiving requirements specifically provided in this article without the granting of a Variance pursuant to section 10-44 of this article.~~

~~Duties of the Building Official, as the Floodplain Administrator of this article, shall include, but not be limited to:~~

- ~~(1) Review all applications for Development Permits to assure that the permit requirements of this article have been satisfied.~~
- ~~(2) Require copies of additional Federal, State, Miami Dade County Permitting, Environment and Regulatory Affairs department, and South Florida Water Management District permits to be submitted and maintained on file with the Development Permit.~~
- ~~(3) Verify and record the actual elevation (in relation to Mean Sea Level) of the Lowest Floor of all new or Substantially Improved Buildings, in accordance with section 10-62(1).~~
- ~~(4) Verify and record the actual elevation (in relation to Mean Sea Level) to which the new or Substantially Improved Buildings have been elevated or Floodproofed, in accordance with section 10-62(2).~~
- ~~(5) In Coastal High Hazard Areas, requiring permittees to provide certification from a registered professional engineer or architect that the Building is designed and securely anchored to adequately anchored pilings or columns in order to withstand velocity waters and hurricane wave wash, in compliance with section 10-63(2), (3) and (4).~~
- ~~(6) In Coastal High Hazard Areas, the Building Official shall review plans for adequacy of Breakaway Walls in accordance with section 10-63(8), (9) and (10).~~
- ~~(7) When Floodproofing is utilized for a particular Building, the Building Official shall obtain certification from a registered professional engineer or architect, in accordance with this article, along with the design, operation, and maintenance plans.~~
- ~~(8) The office of the Building Official shall serve as the official map repository for FEMA Flood Insurance Rate Maps, and Flood Insurance Study (FIS) maps for the community, together with Letters of Map Amendment (LOMAs) and Letters of Map Revision (LOMRs). At least one copy of all current and superseded maps, LOMAs and LOMRs shall be maintained for public use and viewing.~~
- ~~(9) All records pertaining to the provisions of this article shall be maintained in the office of the Building Official and shall be available for public inspection. Copies of all Floodplain Development Permits and summary supporting documentation shall be filed by geographic area for ease of coordinating all Floodplain Development Activities.~~

~~(Ord. No. 93-2, § 1(7C), 1-5-93; Ord. No. 2012-6, § 3, 5-8-12)~~

~~Sec. 10-44. Variances.~~

- ~~(a) Pursuant to F.S. § 553.73(5), the Village Council shall hear and decide requests for Variances from the strict application of the requirements of this article and flood damage resistant construction requirements of the Florida Building Code.~~
- ~~(b) Any person aggrieved by the decision of the Village Council may appeal such decision to the Circuit Court, as provided in the Florida Rules of Appellate Procedure.~~
- ~~(c) Variances under this article may be issued for the repair, improvement or rehabilitation of Historic Structures upon a determination that the proposed repair or rehabilitation will not preclude the Structure's continued designation as a Historic Structure and the Variance is the minimum necessary deviation from the requirements of this article to preserve the historic character and design of the Structure.~~
- ~~(d) In passing upon requests for a Variance under this article, the Village Council shall consider all technical evaluations, all relevant factors, all other applicable provisions of the Florida Building Code, all standards specified in other sections of this article, and:
 - ~~(1) The danger that materials may be swept onto other lands to the injury of others;~~
 - ~~(2) The danger to life and property due to Flooding or erosion damage;~~
 - ~~(3) The susceptibility of the proposed facility and its contents to Flood damage and the effect of such damage on the individual owner;~~
 - ~~(4) The importance of the services provided by the proposed facility to the community;~~
 - ~~(5) The necessity of the facility to a waterfront location, in the case of a Functionally Dependent Use;~~
 - ~~(6) The availability of alternative locations, not subject to Flooding or erosion damage, for the proposed use;~~
 - ~~(7) The compatibility of the proposed use with existing and anticipated Development;~~
 - ~~(8) The relationship of the proposed use to the comprehensive plan and Floodplain management program for that area;~~
 - ~~(9) The safety of access to the property in times of Flood for ordinary and emergency vehicles;~~
 - ~~(10) The expected heights, velocity, duration, rate of rise and sediment transport of the Flood waters and the effects of wave action, if applicable, expected at the site; and~~
 - ~~(11) The costs of providing governmental services during and after Flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges.~~~~
- ~~(e) Upon consideration of the factors listed in subsection (d) of this section, and the purposes of this article, the Village Council may attach such conditions to the granting of Variances as it deems necessary to further the purposes of this article.~~
- ~~(f) Conditions for Variances under this article:
 - ~~(1) Variances under this article shall only be issued upon a determination that the Variance is the minimum necessary, considering the Flood hazard, to afford relief.~~
 - ~~(2) Variances under this article shall only be issued upon:~~~~

- ~~a. A showing of good and sufficient cause;~~
- ~~b. A determination that failure to grant the Variance would result in exceptional hardship; and~~
- ~~c. A determination that the granting of a Variance will not result in increased Flood heights, additional threats to public safety, extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.~~

~~(3) Any applicant to whom a Variance is granted shall be given written notice specifying the difference between the Base Flood Elevation and the Lowest Floor elevation and stating that the cost of Flood insurance will be commensurate with the increased risk resulting from the Lowest Floor being located below Base Flood Elevation.~~

~~(4) The Building Official shall maintain the records of all Variances, both granted and denied, and report any Variances to the Federal Emergency Management Agency upon request.~~

~~(Ord. No. 93-2, § 1(10), 1-5-93; Ord. No. 2012-6, § 3, 5-8-12)~~

~~Sec. 10-45. Administrative appeals.~~

~~(a) The Village Council shall hear and decide appeals when it is alleged there is an error in any requirement, decision or determination made by the Building Official in the administration of this article.~~

~~(b) Any person aggrieved by the decision of the Village Council may appeal such decision to the Circuit Court, as provided in the Florida Rules of Appellate Procedure.~~

~~(c) The Building Official shall maintain the records of all appeal actions under this section.~~

~~(Ord. No. 93-2, § 1(11), 1-5-93; Ord. No. 2012-6, § 3, 5-8-12)~~

~~Secs. 10-46—10-60. Reserved.~~

~~DIVISION 3. FLOOD HAZARD REDUCTION~~

~~Sec. 10-61. General standards.~~

~~In all Special Flood Hazard Areas the following provisions are required:~~

~~(1) New Construction and Substantial Improvements shall be constructed in accordance with the Flood provisions of the latest edition of the Florida Building Code, as amended, that governs the Flood Damage Resistant design of facilities.~~

~~(2) New Construction and Substantial Improvements shall be anchored to prevent flotation, collapse, and lateral movement of the Structure.~~

~~(3) New Construction and Substantial Improvements shall be constructed with materials and utility equipment resistant to Flood damage.~~

~~(4) New Construction and Substantial Improvements shall be constructed by methods and practices that minimize or eliminate Flood damage. The top of the lowest habitable floor must be at or above B.F.E. for that property and the underside of the floor construction~~

must consist of an open crawlspace with Flood openings to equalize hydrostatic forces being provided in all supporting walls.

- ~~(5) Electrical, communication, heating, ventilation, plumbing, air conditioning equipment, including duct work, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of Flooding.~~
- ~~(6) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of Flood waters into the system.~~
- ~~(7) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of Flood waters into the systems and discharges from the systems into Flood waters.~~
- ~~(8) Onsite waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during Flooding.~~
- ~~(9) Any alteration, repair, reconstruction or improvement to a Building which is in compliance with the provisions of this article shall meet the requirements of New Construction as contained in this article.~~
- ~~(10) Adequate drainage paths shall be provided around Structures to guide stormwater runoff away from them.~~
- ~~(11) Any improvements made to new or Substantially Improved Buildings for which permits were issued on or after September 29, 1972, shall conform to the requirements for New Construction under this article.~~
- ~~(12) Historic Buildings may be exempted from one or all of the standards contained in sections 10-61—10-63, provided the request for an exemption is approved as a Variance, as provided in this article, and, with regard to Historic Buildings, the proposed improvements are certified by a certified local government or the State Historic Preservation Officer as maintaining the historical integrity and classification of the Building.~~
- ~~(13) Any improvements shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize or eliminate Flood damage.~~
- ~~(14) Underground tanks shall be anchored to prevent flotation, collapse or lateral movement resulting from hydrodynamic and hydrostatic loads including the effects of buoyancy assuming the tank is empty.~~
- ~~(15) Above-ground tanks.~~
 - ~~a. Above-ground tanks, elevated. Above-ground tanks shall be attached to and elevated to or above the Base Flood Elevation on a supporting Structure that is designed to prevent flotation, collapse or lateral movement during conditions of the Base Flood. Tank-supporting Structures shall meet the foundation requirements of the applicable Flood zone.~~
 - ~~b. Above-ground tanks, which are not elevated in accordance with subsection (15)a., shall be permitted in areas other than coastal high hazard areas, provided that such tanks are anchored or otherwise designed and constructed to prevent flotation,~~

~~collapse or lateral movement resulting from hydrodynamic and hydrostatic loads during conditions of the Base Flood, including the effects of buoyancy assuming the tank is empty, and assuming the effects of Flood borne debris.~~

- ~~(16) Tank inlets, fill openings, outlets and vents shall be at or above the Base Flood Elevation or fitted with covers designed to prevent the inflow of Floodwater or outflow of the contents of the tanks during conditions of the Base Flood; and anchored to prevent lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the Base Flood.~~

~~(17) Subdivisions proposals and other proposed new Development.~~

- ~~a. All subdivision proposals and other proposed new Developments shall be consistent with the need to minimize Flood damage and will be reasonably safe from flooding.~~
- ~~b. All subdivision proposals and other proposed new Developments shall have adequate drainage provided to reduce exposure to Flood hazards.~~
- ~~c. For subdivision proposals and other proposed new Developments within A-Zones, Base Flood Elevation and Flood Hazard Area mapping shall be provided in accordance with this article for subdivision proposals and other proposed Development which is greater than the lesser of 50 lots or five acres.~~
- ~~d. The Base Flood boundary and/or V-zone boundary if applicable, and the applicable Base Flood Elevation for the Building site on each lot, shall be clearly marked on all recorded subdivision plats, be they for Residential or Nonresidential use.~~

~~(Ord. No. 93-2, § 1(8A), 1-5-93); Ord. No. 2012-6, § 4, 5-8-12~~

~~Sec. 10-62. Specific standards for A-zone Flood Hazard Areas.~~

~~In all Special Flood Hazard Areas, areas denoted with an "A" prefix on the FIRM where Base Flood Elevation data have been provided, as set forth in section 10-26, the following provisions are required, in addition to the general standards of section 10-61.~~

- ~~(1) Residential Structures. New Construction and Substantial Improvement of any Residential Building shall have the Lowest Floor, together with all mechanical and electrical equipment, including duct work, and including any Basement, elevated no lower than the Base Flood Elevation. Should solid foundation perimeter walls be used to elevate a Structure, openings sufficient to facilitate the automatic equalization of Flood hydrostatic forces on exterior walls shall be provided in accordance with standards of section 10-62(3). The Floor of an attached garage may be placed below the Base Flood Elevation, provided the openings required in section 10-62(3) are installed and all mechanical and electrical equipment, including laundry facilities and food freezers, is elevated above the Base Flood Elevation.~~
- ~~(2) Nonresidential Structures. New Construction and Substantial Improvement of any Nonresidential Building shall have the Lowest Floor, together with all mechanical and electrical equipment, including duct work, and including any Basement, elevated no lower than the Base Flood Elevation. The Floor of an attached garage or loading dock may be placed below the Base Flood Elevation, provided the openings required in section 10-62(3) are installed and all mechanical and electrical equipment is elevated above the~~

~~Base Flood Elevation. Buildings may be Floodproofed to an elevation one foot above the required Base Flood Elevation noted in this section, in lieu of being elevated, provided that all areas of the Building below the required elevation are watertight with walls substantially impermeable to the passage of water, and use structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification shall be provided to the official as set forth in section 10-43(4) along with the design, operation, and maintenance plans.~~

~~(3) *Elevated Buildings.* New Construction and Substantial Improvements that include fully enclosed areas formed by foundation and other exterior walls below the Lowest Floor shall be designed to preclude finished living space and shall be designed to allow for the entry and exit of Flood waters to automatically equalize hydrostatic Flood forces on exterior walls.~~

~~a. Designs for complying with this requirement must either be certified by a professional engineer or architect or meet or exceed the following minimum criteria:~~

- ~~1. Provide a minimum of two openings (in walls or doors) having a total net area of not less than one square inch for every square foot of enclosed area subject to Flooding;~~
- ~~2. The bottom of all openings shall be no higher than one foot above grade; and~~
- ~~3. Openings may be equipped with screens, louvers, valves or other coverings or devices, provided they permit the automatic flow of Flood waters in both directions.~~

~~b. Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment used in connection with the premises (standard exterior door) or entry to the living area (stairway or elevator).~~

~~c. The interior portion of such enclosed areas shall not be finished or partitioned into separate rooms.~~

~~d. Use of such enclosed areas shall be solely limited to parking of vehicles, storage and Building access.~~

~~(4) *Recreational Vehicles.* All Recreational Vehicles placed on sites within Special Flood Hazard Areas must either:~~

- ~~a. Be on the site for fewer than 180 consecutive days; or~~
- ~~b. Be fully licensed and ready for highway use.~~

~~A Recreational Vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached Structures.~~

~~(5) *Accessory Structures.* Accessory Structures may be exempted from the elevation requirements of section 10-62, provided the following criteria are met:~~

- ~~a. The Structure is used only for parking of vehicles or storage;~~

- ~~b. The Structure is designed and constructed so as to have a low potential for damage during a Base Flood (e.g. constructed of Flood Damage Resistant materials as provided in FEMA Technical Bulletin No. 88-2, and any subsequent revisions thereto);~~
 - ~~c. The Structure shall be located so as to offer the minimum resistance to the flow of Flood waters;~~
 - ~~d. The Structure is firmly anchored, per section 10-61(2); and~~
 - ~~e. All electrical service, heating and cooling equipment, and other mechanical or electrical equipment is either elevated above the Base Flood Elevation or is Floodproofed. One ground fault interrupt circuit may be installed below the Base Flood Elevation, and all construction below that elevation shall be of Flood Damage Resistant materials.~~
- ~~(6) All New Construction and Substantial Improvements located seaward of the Florida Coastal Construction Control Line shall also meet the more restrictive elevation requirements established by the Florida Department of Environmental Protection and nonelevation design requirements of this article.~~

~~(Ord. No. 93-2, § 1(8B), 1-5-93; Ord. No. 2012-6, § 4, 5-8-12)~~

~~Sec. 10-63. Standards for Coastal High Hazard Areas (V-zones).~~

~~Located within the Special Flood Hazard Areas are areas designated as Coastal High Hazard Areas, which are denoted with a "V" prefix on the FIRM. These areas, called "velocity zones," have special Flood hazards associated with wave action; therefore, the following provisions, in addition to those contained in sections 10-61 and 10-62, shall apply:~~

- ~~(1) *Building location.* All Buildings shall be located landward of the reach of Mean High Tide and in conformance with the requirements of the State of Florida Coastal Zone Protection Act of 1985, whichever is more restrictive.~~
- ~~(2) *Elevated Buildings.* All Buildings shall be elevated so that the bottom of the lowest horizontal structural member of the Lowest Floor (excluding pilings or columns), together with all mechanical and electrical equipment, including duct work, is located no lower than the Base Flood Elevation, with all space below the lowest horizontal structural member open so as not to impede the flow of water. Open wood latticework or insect screening may be permitted for aesthetic purposes only and must be designed to wash away in the event of abnormal wave action and in accordance with subsection (8) of this section.~~
- ~~(3) *Piling foundations.* All Structures shall be securely anchored on pilings extending vertically below grade a sufficient depth below the zone of potential erosion and scour and securely anchored to subsoil strata.~~
- ~~(4) *Anchoring and connection requirements.* All pile foundations and Structures attached thereto shall be anchored to resist flotation, collapse and lateral movement due to the effect of wind and water loads acting simultaneously on all Building components. Proper structural anchoring shall include a complete system of adequately sized galvanized metal connectors securely fastening the various structural subsystems of the Building together,~~

from the roofing and ridge down to the pilings, to resist wind damage. Water loading values shall equal or exceed the Base Flood. Wind loading values shall be in accordance with the Florida Building Code, and any subsequent revisions thereto.

- ~~(5) *Certification of design.* At the time of application for a permit, a registered professional engineer or architect shall certify that the design, specifications and plans for construction are in compliance with the provisions contained in section 10-63(2), (3) and (4), and shall cite the parameters and variables used in developing the design, including wind loading values, water loading values, depth of potential erosion and scour zone, and subsoil strata characteristics.~~
- ~~(6) *Ban on use of structural fill.* There shall be no fill used as structural support. Limited noncompacted fill may be used around the perimeter of a Building for landscaping/aesthetic purposes, provided the fill will wash out from storm surge (thereby rendering the Building free of obstruction) prior to generating excessive loading forces, ramping effects, or wave deflection. The Building Official shall approve design plans for landscaping/aesthetic fill only after the applicant has provided an analysis by an engineer, architect, and/or soil scientist which demonstrates that the following factors have been fully considered and demonstrated by an engineering analysis by a certified professional:~~

 - ~~a. Particle composition of fill material does not have a tendency for excessive natural compaction;~~
 - ~~b. Volume and distribution of fill will not cause wave defection to adjacent properties; and~~
 - ~~c. Slope of fill will not cause wave run-up or ramping.~~
- ~~(7) *Protection of Sand Dunes and Mangrove Stands.* There shall be no alteration of Sand Dunes or Mangrove Stands.~~
- ~~(8) *Enclosures below Lowest Floor.* Open wood lattice work or insect screening shall be allowed below the Lowest Floor, provided it is not part of the structural support of the Building and is designed so as to break away, under abnormally high tides or wave action, without damage to the structural integrity of the Building on which it is to be used. Solid, nonsupporting Breakaway Walls may also be used, but only for purposes of enclosing and securing access to upper Floors (foyer for staircase or elevator) and for secured storage and vehicle parking. The solid Breakaway Walls shall have a safe design loading resistance of not less than ten and not more than 20 pounds per square foot.~~
- ~~(9) *Use of enclosed areas.* If aesthetic open wood latticework or insect screening is utilized, such enclosed space shall be used only for parking of vehicles, Building access, or limited storage of maintenance equipment used in connection with the premises. Areas enclosed by solid Breakaway Walls shall be used for Building access, parking of vehicles, and secured limited storage only.~~
- ~~(10) *Plans for enclosures.* Prior to construction, plans for any Buildings that will have open wood latticework or insect screening, or solid Breakaway Walls, must be submitted to the Building Official for approval, and must comply with the standard noted in subsection (8) of this section. Certification by a registered architect or engineer is required for any Breakaway Wall designs which do not comply with such standard. Such designs must be certified to collapse as a result of a water load less than that which would occur during~~

the Base Flood, and to not result in the displacement, collapse, or other structural damage to the rest of the Building and foundation system or to adjoining Structures. Water and wind loading values shall be those set forth in subsection (4) of this section.

- (11) ~~Restriction on future enclosures.~~ Any alteration, repair, reconstruction or improvement to a Structure shall not enclose the space below the Lowest Floor, except as provided for in section 10-63(8) and (9).
- (12) ~~Recreational Vehicles.~~ No Recreational Vehicles shall be placed in Coastal High Hazard Areas.
- (13) ~~Certification of completed construction.~~ For all New Construction and Substantial Improvements, a registered professional engineer or architect shall certify that the Building was constructed in compliance with the provisions contained in this section, including the approved, certified design specifications provided per subsection (5) of this section.
- (14) ~~Accessory Structures.~~ Accessory Structures shall be allowed per subsection (5) of this section, subject to the following criteria:
 - a. The Structure is located so as not to cause collapse, displacement, or other structural damage to adjacent Structures during a Base Flood event;
 - b. The Structure is designed so as to not provide resistance to the combined effects of wave action and wind during a Base Flood event, and to break down into small enough pieces so that the resultant debris does not create a serious danger to adjacent Structures (the safe design loading of the walls shall be not less than ten and not more than 20 pounds per square foot); and
 - c. The design of the Building is certified by a registered professional engineer or architect to comply with such standards.
- (15) All New Construction and Substantial Improvements located seaward of the Florida Coastal Construction Control Line shall also meet the more restrictive elevation requirements established by the Florida Department of Environmental Protection and nonelevation design requirements of this article.
- (16) ~~Above-ground tanks shall not be permitted.~~
- (17) ~~Concrete slabs used as parking pads, enclosure floors, landings, decks, walkways, patios and similar nonstructural uses.~~ Concrete slabs used as parking pads, enclosure floors, landings, decks, walkways, patios and similar nonstructural uses are permitted beneath or adjacent to Buildings and Structures provided that the concrete slabs are designed and constructed to be:
 - a. Structurally independent of the foundation system of the Building or Structure;
 - b. Frangible and not reinforced, so as to minimize debris during flooding that is capable of causing significant damage to any Structure; and
 - c. Have a maximum slab thickness of not more than four inches.
- (18) ~~Decks and patios.~~ Decks and patios shall be located, designed, and constructed in compliance with the following requirements:

- a. ~~A deck that is structurally attached to a Building or Structure shall have the bottom of the lowest horizontal structural member at or above the Base Flood Elevation and any supporting members that extend below the Base Flood Elevation shall comply with the foundation requirements that apply to the Building or Structure, which shall be designed to accommodate any increased loads resulting from the attached deck;~~
- b. ~~A deck or patio that is located below the Base Flood Elevation shall be structurally independent from Buildings or Structures and their foundation systems, and shall be designed and constructed either to remain intact and in place during Design Flood conditions or to break apart into small pieces to minimize debris during flooding that is capable of causing structural damage to adjacent Elevated Buildings or Structures;~~
- e. ~~A deck or patio that has a vertical thickness of more than 12 inches or that is constructed with more than the minimum amount of fill necessary for site drainage shall not be approved unless an analysis prepared by a qualified registered design professional demonstrates no harmful diversion of floodwaters or wave runup and wave reflection that would increase damage to adjacent Elevated Buildings or Structures; and~~
- d. ~~A deck or patio that has a vertical thickness of 12 inches or less and that is at natural grade or on nonstructural fill material that is similar to and compatible with local soils and is the minimum amount necessary for site drainage may be approved without requiring analysis of the impact on diversion of floodwaters or wave runup and wave reflection.~~

~~(19) Other Development. In Coastal High Hazard Areas, Development activities other than Structures shall be permitted only if authorized by the appropriate state or local authority. Such Development activities shall be located outside the footprint of, and not structurally attached to, Structures, and shall be authorized only if analyses prepared by qualified registered design professionals demonstrate no harmful diversion of floodwaters, wave runup and wave reflection that would increase damage to adjacent Elevated Buildings and Structures. Such other Development activities include but are not limited to:~~

- a. ~~Bulkheads, seawalls, retaining walls, revetments, and similar erosion control Structures;~~
- b. ~~Solid fences and privacy walls, and fences prone to trapping debris, unless designed and constructed to fail under Flood conditions less than the Design Flood or otherwise function to avoid obstruction of floodwaters.~~

~~(Ord. No. 93-2, § 1(8C), 1-5-93; Ord. No. 2012-6, § 4, 5-8-12)~~

~~Sec. 10-64. Disposition of rainwater and liquid wastes.~~

~~Rainwater or other liquid wastes from any premises shall be disposed of where same originates or falls. The disposal of any rainwater or other liquid wastes by causing or allowing same to be disposed of or flow on or across any adjoining property or sidewalk, either public or private, shall be deemed a nuisance, and shall be corrected by properly disposing of same.~~

~~(Ord. No. 2012-6, § 4, 5-8-12)~~

Editor's note—Ord. No. 2012-6, § 4, adopted May 8, 2012, replaced § 10-64 in its entirety. Former § 10-16 pertained to standards for subdivision proposals and was derived from Ord. No. 93-2, § 1(9), adopted January 5, 1993.

EXHIBIT B

ARTICLE I. - ADMINISTRATION

DIVISION 1. - GENERALLY

Section 10-1. - Title. These regulations shall be known as the *Floodplain Management Ordinance* of the Village.

Section 10-2. - Scope. The provisions of this Chapter shall apply to all Development that is wholly within or partially within any flood hazard area, including but not limited to the subdivision of land; filling, grading, and other site improvements and utility installations; construction, alteration, remodeling, enlargement, improvement, replacement, repair, relocation or demolition of buildings, structures, and facilities that are exempt from the *Florida Building Code*; installation or replacement of tanks; placement of Recreational Vehicles; installation of swimming pools; and any other Development.

Section 10-3. - Intent. The purposes of this Chapter and the flood load and flood resistant construction requirements of the *Florida Building Code* are to establish minimum requirements to safeguard the public health, safety, and general welfare and to minimize public and private losses due to flooding through regulation of Development in flood hazard areas to:

- (1) Minimize unnecessary disruption of commerce, access and public service during times of flooding;
- (2) Require the use of appropriate construction practices in order to prevent or minimize future flood damage;
- (3) Manage filling, grading, dredging, paving, excavation, drilling operations, storage of equipment or materials, and other Development which may increase flood damage or erosion potential;
- (4) Manage the alteration of flood hazard areas and shorelines to minimize the impact of Development on the natural and beneficial functions of the floodplain;
- (5) Minimize damage to public and private facilities and utilities;
- (6) Help maintain a stable tax base by providing for the sound use and Development of flood hazard areas;
- (7) Minimize the need for future expenditure of public funds for flood control projects and response to and recovery from flood events; and
- (8) Meet the requirements of the National Flood Insurance Program for community participation as set forth in the Title 44 Code of Federal Regulations, Section 59.22.

Section 10-4. - Coordination with the *Florida Building Code*. This Chapter is intended to be administered and enforced in conjunction with the *Florida Building Code*. Where cited, ASCE 24 refers to the edition of the standard that is referenced by the *Florida Building Code*.

Section 10-5. - Warning. The degree of flood protection required by this Chapter and the *Florida Building Code* is considered the minimum reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur. Flood heights may be

increased by man-made or natural causes. This Chapter does not imply that land outside of mapped Special Flood Hazard Areas, or that uses permitted within such flood hazard areas, will be free from flooding or flood damage. The flood hazard areas and Base Flood Elevations contained in the Flood Insurance Study and shown on Flood Insurance Rate Maps and the requirements of Title 44 Code of Federal Regulations, Sections 59 and 60 may be revised by the Federal Emergency Management Agency, requiring the Village to revise these regulations to remain eligible for participation in the National Flood Insurance Program. No guaranty of vested use, existing use, or future use is implied or expressed by compliance with this Chapter.

Section 10-6. - Disclaimer of Liability. This Chapter shall not create liability on the part of the Village, the Village Council, or by any officer or employee thereof for any flood damage that results from reliance on this Chapter or any administrative decision lawfully made thereunder.

DIVISION 2. - APPLICABILITY

Section 10-7. - Conflict. Where there is a conflict between a general requirement and a specific requirement, the specific requirement shall be applicable.

Section 10-8. - Areas to which this Chapter applies. This Chapter shall apply to all flood hazard areas within the Village as established in Section 10-9 of this Chapter.

Section 10-9. - Basis for establishing flood hazard areas. The Flood Insurance Study for Miami-Dade County, Florida and Incorporated Areas dated September 11, 2009, and all subsequent amendments and revisions, and the accompanying Flood Insurance Rate Maps (FIRM), and all subsequent amendments and revisions to such maps, are adopted by reference as a part of this Chapter and shall serve as the minimum basis for establishing flood hazard areas. Studies and maps that establish flood hazard areas are on file with the Village Clerk.

Section 10-10. - Submission of additional data to establish flood hazard areas. To establish flood hazard areas and Base Flood Elevations, pursuant to Division 5 of this Article, the Floodplain Administrator may require submission of additional data. Where field surveyed topography prepared by a Florida licensed professional surveyor or digital topography accepted by the Village indicates that ground elevations:

- (1) Are below the closest applicable Base Flood Elevation, even in areas not delineated as a Special Flood Hazard Area on a FIRM, the area shall be considered as a flood hazard area and subject to the requirements of this Chapter and, as applicable, the requirements of the *Florida Building Code*.
- (2) Are above the closest applicable Base Flood Elevation, the area shall be regulated as a Special Flood Hazard Area unless the Applicant obtains a Letter of Map Change that removes the area from the Special Flood Hazard Area.

Section 10-11. - Other laws. The provisions of this Chapter shall not be deemed to nullify any provisions of local, state or federal law.

Section 10-12. - Abrogation and greater restrictions. This Chapter supersedes any code provision in effect for management of Development in flood hazard areas. However, it is not

intended to repeal or abrogate any existing code provisions including but not limited to land Development regulations, zoning ordinances, stormwater management regulations, or the *Florida Building Code*. In the event of a conflict between this Chapter and any other code provision, the more restrictive shall govern, provided that the *Florida Building Code* shall be applicable in the event of a conflict with any requirement of this Chapter. This ordinance shall not impair any deed restriction, covenant or easement, but any land that is subject to such interests shall also be governed by this ordinance.

Section 10-13. - Interpretation. In the interpretation and application of this Chapter, all provisions shall be:

- (1) Considered as minimum requirements;
- (2) Liberally construed in favor of the Village; and
- (3) Deemed neither to limit nor repeal any other powers granted under state statutes or the Florida Constitution.

DIVISION 3. - DUTIES AND POWERS OF THE FLOODPLAIN ADMINISTRATOR

Section 10-14. - Designation. The Chief Building Official or designee is designated as the Floodplain Administrator. The Floodplain Administrator may delegate performance of certain duties to other employees.

Section 10-15. - General. The Floodplain Administrator is authorized and directed to administer and enforce the provisions of this Chapter. The Floodplain Administrator shall have the authority to render interpretations of this Chapter consistent with the intent and purpose of this Chapter and may establish policies and procedures in order to clarify the application of its provisions. Such interpretations, policies, and procedures shall not have the effect of waiving requirements specifically provided in this Chapter without the granting of a Variance pursuant to Division 7 of this Article.

Section 10-16. - Applications and permits. The Floodplain Administrator, in coordination with other pertinent offices of the Village, shall:

- (1) Review applications and plans to determine whether proposed new Development will be located in flood hazard areas;
- (2) Review applications for modification of any existing Development in flood hazard areas for compliance with the requirements of this Chapter;
- (3) Interpret flood hazard area boundaries where such interpretation is necessary to determine the exact location of boundaries; a person contesting the determination shall have the opportunity to appeal the interpretation;
- (4) Provide available flood elevation and flood hazard information;
- (5) Determine whether additional flood hazard data shall be obtained from other sources or shall be developed by an Applicant;
- (6) Review applications to determine whether proposed Development will be reasonably safe from flooding;

- (7) Issue floodplain Development permits or approvals for Development other than buildings and structures that are subject to the *Florida Building Code*, including buildings, structures and facilities exempt from the *Florida Building Code*, when compliance with this Chapter is demonstrated, or disapprove the same in the event of noncompliance; and
- (8) Coordinate with and provide comments to the Building Official to assure that applications, plan reviews, and inspections for buildings and structures in flood hazard areas comply with the applicable provisions of this Chapter.

Section 10-17. - Substantial Improvement and Substantial Damage determinations. For applications for building permits to improve buildings and structures, including alterations, movement, enlargement, replacement, repair, change of occupancy, additions, rehabilitations, renovations, Substantial Improvements, repairs of Substantial Damage, and any other improvement of or work on such buildings and structures, the Floodplain Administrator, in coordination with the Building Official, shall:

- (1) Estimate the Market Value, or require the Applicant to obtain an appraisal of the Market Value prepared by a qualified independent appraiser, of the building or structure before the Start of Construction of the proposed work; in the case of repair, the Market Value of the building or structure shall be the Market Value before the damage occurred and before any repairs are made;
 - a. The Chief Building Official shall have the authority to:
 - i. Require the Applicant to provide an appraisal report containing an opinion as to Market Value of the Structure in any case where the reconstruction, rehabilitation, addition or other improvements exceed \$5,000.00 and where the Chief Building Official determines that a good faith question exists as to whether the proposed reconstruction, rehabilitation, addition, or combination or accumulation of the proposed reconstruction, rehabilitation, addition or other improvement qualifies as a Substantial Improvement as defined in this Chapter. The cost of the appraisal shall be borne by the Applicant.
 - ii. Where an appraisal report is required, it shall be prepared by a qualified appraiser, holding membership in a recognized appraisal organization, or certified under state law, conducting the appraisal within the appraiser's area of designation, and conducting the appraisal in accordance with generally recognized standards and methods of appraisal. The appraisal report shall exhibit that the requirements of this section have been met.
 - iii. Upon submittal by the Applicant of the appraisal report, the Chief Building Official shall have the authority to have the appraisal report reviewed by a qualified appraiser and/or to have an additional appraisal conducted by a qualified appraiser. The cost of this appraisal review and/or additional appraisal shall be borne by the Village.
- (2) Review the costs of improvements and repairs. For purposes of determining the costs the improvements and repairs, costs all include without limitation, labor, materials, overhead, profit and demolition costs. The greater of the following shall be used:

- a. Good faith estimates of costs certified by a licensed professional;
 - b. Actual costs as evidenced by a contract or group of contracts, certified by a licensed professional; or
 - c. An estimate of costs based upon the prevailing costs in the Village for similar construction.
- (3) Compare the cost to perform the improvement, the cost to repair a damaged building to its pre-damaged condition, or the combined costs of improvements and repairs, if applicable, to the Market Value of the building or structure;
- (4) Determine and document whether the proposed work constitutes Substantial Improvement or repair of Substantial Damage; ~~this determination requires evaluation of previous permits issued for improvements and repairs as specified in the definition of "Substantial Improvement";~~ and
- (5) Notify the Applicant if it is determined that the work constitutes Substantial Improvement or repair of Substantial Damage and that compliance with the flood resistant construction requirements of the *Florida Building Code* and this Chapter is required.

Section 10-18. - Modifications of the strict application of the requirements of the *Florida Building Code*. The Floodplain Administrator shall review requests submitted to the Building Official that seek approval to modify the strict application of the flood load and flood resistant construction requirements of the *Florida Building Code* to determine whether such requests require the granting of a Variance pursuant to Division 7 of this Article.

Section 10-19. - Notices and orders. The Floodplain Administrator shall coordinate with the Village Clerk and appropriate local agencies for the issuance of all necessary notices or orders to ensure compliance with this Chapter.

Section 10-20. - Inspections. The Floodplain Administrator shall make the required inspections as specified in Division 6 of this Article for Development that is not subject to the *Florida Building Code*, including buildings, structures and facilities exempt from the *Florida Building Code*. The Floodplain Administrator shall inspect flood hazard areas to determine if Development is undertaken without issuance of a permit.

Section 10-21. - Other duties of the Floodplain Administrator. The Floodplain Administrator shall have other duties, including but not limited to:

- (1) Establishing, in coordination with the Building Official, procedures for administering and documenting determinations of Substantial Improvement and Substantial Damage made pursuant to Section 10-17 of this Article;
- (2) Requiring Applicants who submit hydrologic and hydraulic engineering analyses to support permit applications to submit to FEMA the data and information necessary to maintain the Flood Insurance Rate Maps if the analyses propose to change Base Flood Elevations, flood hazard area boundaries, or floodway designations; such submissions shall be made within 6 months of such data becoming available;

- (3) Reviewing required design certifications and documentation of elevations specified by this Chapter and the *Florida Building Code* to determine that such certifications and documentations are complete; and
- (4) Notifying the Federal Emergency Management Agency when the corporate boundaries of the Village are modified.

Section 10-22. - Floodplain management records. Regardless of any limitation on the period required for retention of public records, the Floodplain Administrator shall maintain and permanently keep and make available for public inspection all records that are necessary for the administration of this Chapter and the flood resistant construction requirements of the *Florida Building Code*, including Flood Insurance Rate Maps; Letters of Map Change; records of issuance of permits and denial of permits; determinations of whether proposed work constitutes Substantial Improvement or repair of Substantial Damage; required design certifications and documentation of elevations specified by the *Florida Building Code* and this Chapter; documentation related to appeals and Variances, including justification for issuance or denial; and records of enforcement actions taken pursuant to this Chapter and the flood resistant construction requirements of the *Florida Building Code*. Hard copy and digital records shall be maintained at a secure storage site located outside of the special flood hazard area and new records shall be transferred to the site at least once a year. These records shall be available for public inspection at the Village Clerk's Office.

DIVISION 4. - PERMITS

Section 10-23. - Permits required. Any Applicant who intends to undertake any Development activity within the scope of this Chapter, including buildings, structures and facilities exempt from the *Florida Building Code*, which is wholly within or partially within any flood hazard area shall first make application to the Floodplain Administrator, and the Building Official if applicable, and shall obtain the required permit(s) and approval(s). No such permit or approval shall be issued until compliance with the requirements of this Chapter and all other applicable codes and regulations has been satisfied.

Section 10-24. - Floodplain Development Approvals. Floodplain Development Approvals shall be issued pursuant to this Chapter for any Development activities not subject to the requirements of the *Florida Building Code*, including buildings, structures and facilities exempt from the *Florida Building Code*. Depending on the nature and extent of proposed Development that includes a building or structure, the Floodplain Administrator may determine that a Floodplain Development Approval is required in addition to a building permit.

Section 10-25. - Buildings, structures and facilities exempt from the *Florida Building Code*. Pursuant to the requirements of federal regulation for participation in the National Flood Insurance Program (44 C.F.R. Sections 59 and 60), Floodplain Development Approvals shall be required for buildings, structures and facilities that are exempt from the *Florida Building Code*, as provided in section 553.73(10), F.S., as it may be amended, and any further exemptions provided by law, which are subject to the requirements of this Chapter.

Section 10-26. - Application for a permit or approval. To obtain a Floodplain Development

Approval the Applicant shall first file an application in writing on a form furnished by the Village. The information provided in the application for Floodplain Development Approval shall:

- (1) Identify and describe the Development to be covered by the permit or approval.
- (2) Describe the land on which the proposed Development is to be conducted by legal description, street address or similar description that will readily identify and definitively locate the site.
- (3) Indicate the use and occupancy for which the proposed Development is intended.
- (4) Be accompanied by a site plan or construction documents as specified in Division 5 of this Article.
- (5) State the valuation of the proposed work.
- (6) Be signed by the Applicant or the Applicant's authorized agent.
- (7) Give such other data and information as required by the Floodplain Administrator.
- (8) For projects proposing to enclose areas under dwellings, a signed Declaration of Land Restriction (Nonconversion Agreement) shall also be furnished by the Applicant and shall be recorded at the Applicant's expense in the official records of Miami-Dade County in the chain of title of the subject property prior to issuance of the Certificate of Occupancy.

Section 10-27. - Validity of permit or approval. The issuance of a Floodplain Development Approval pursuant to this Chapter shall not be construed to be a permit for, or approval of, any violation of this Chapter, the *Florida Building Code*, or any other code provision of the Village. The issuance of permits based on submitted applications, construction documents, and information shall not prevent the Floodplain Administrator from requiring the correction of errors and omissions.

Section 10-28. - Expiration. A Floodplain Development Approval shall become invalid upon the expiration of the building permit associated with such approval.

Section 10-29. - Suspension or revocation. The Floodplain Administrator is authorized to suspend or revoke a Floodplain Development Approval if the approval was issued in error, on the basis of incorrect, inaccurate or incomplete information, or in violation of this Chapter or any other code provision, regulation or requirement of the Village.

Section 10-30. - Other permits required. The issuance of a Development permit by the Village does not in any way create any right on the part of an Applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the Village for issuance of the permit if the Applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Floodplain Development Approvals and building permits shall include a condition that all other applicable state or federal permits be obtained before commencement of the permitted Development, including but not limited to the following:

- (1) The South Florida Water Management District; section 373.036, F.S.

- (2) Florida Department of Health for onsite sewage treatment and disposal systems; section 381.0065, F.S. and Chapter 64E-6, F.A.C.
- (3) Florida Department of Environmental Protection for construction, reconstruction, changes, or physical activities for shore protection or other activities seaward of the coastal construction control line; section 161.141, F.S.
- (4) Florida Department of Environmental Protection for activities subject to the Joint Coastal Permit; section 161.055, F.S.
- (5) Florida Department of Environmental Protection for activities that affect wetlands and alter surface water flows, in conjunction with the U.S. Army Corps of Engineers; Section 404 of the Clean Water Act.
- (6) Federal permits and approvals.

DIVISION 5. - SITE PLANS AND CONSTRUCTION DOCUMENTS

Section 10-31. - Information for Development in flood hazard areas. The site plan or construction documents for any Development subject to the requirements of this Chapter shall be drawn to scale and shall include, as applicable to the proposed Development:

- (1) Delineation of flood hazard areas and flood zone(s), Base Flood Elevation(s), and ground elevations if necessary for review of the proposed Development.
- (2) Elevation in relation to the datum on the FIRM of the proposed Lowest Floor, or the lowest surface of any heating or air conditioning duct work installed below the Lowest Floor, or the lowest horizontal supporting member in a Coastal High Hazard Area (Zone V), of all proposed New Construction and Substantial Improvements.
- (3) Elevation in relation to datum on the FIRM to which any proposed Building or Substantial Improvement, not located in a Coastal High Hazard Area (Zone V), will be floodproofed.
- (4) Signed, sealed certificate, separate from the submitted plans, from a registered professional engineer or architect that the floodproofed Building will meet the floodproofing criteria in this Chapter.
- (5) Signed, sealed certificate, separate from the submitted plans, from a registered professional engineer or architect that a new or Substantially Improved Building located in the Coastal High Hazard Area (Zone V) will meet the construction standards contained in this Chapter.
- (6) Location of the proposed activity and proposed structures, and locations of Existing Buildings and structures; in coastal high hazard areas, new buildings shall be located landward of the reach of mean high tide.
- (7) Location, extent, amount, and proposed final grades of any filling, grading, or excavation.
- (8) Where the placement of fill is proposed, the amount, type, and source of fill material; compaction specifications; a description of the intended purpose of the fill areas; and evidence that the proposed fill areas are the minimum necessary to achieve the intended purpose.
- (9) Description of the type, extent and depth of proposed excavation in relation to the datum on the FIRM.

- (10) Delineation of the Coastal Construction Control Line or notation that the site is seaward of the Coastal Construction Control Line, if applicable.
- (11) Extent of any proposed alteration of Sand Dunes or Mangrove Stands, provided such alteration is approved by the Florida Department of Environmental Protection.
- (12) Grading and drainage plans.

The Floodplain Administrator is authorized to waive the submission of site plans, construction documents, and other data that are required by this Chapter but that are not required to be prepared by a registered design professional if it is found that the nature of the proposed Development is such that the review of such submissions is not necessary to ascertain compliance with this Chapter.

Section 10-33. - Additional analyses and certifications. As applicable to the location and nature of the proposed Development activity, and in addition to the requirements of this Division, for activities that propose to alter Sand Dunes or Mangrove Stands in Coastal High Hazard Areas (Zone V), the Applicant shall have an engineering analysis that demonstrates that the proposed alteration will not increase the potential for flood damage.

Section 10-34. - Submission of additional data. When additional hydrologic, hydraulic or other engineering data, studies, and additional analyses are submitted to support an application, the Applicant has the right to seek a Letter of Map Change from FEMA to change the Base Flood Elevations, change floodway boundaries, or change boundaries of flood hazard areas shown on FIRMs, and to submit such data to FEMA for such purposes. The analyses shall be prepared by a Florida licensed engineer in a format required by FEMA. Submittal requirements and processing fees shall be the responsibility of the Applicant.

DIVISION 6. - INSPECTIONS

Section 10-35. - General. Development for which a Floodplain Development Approval is required shall be subject to inspection.

Section 10-36. - Development other than buildings and structures. The Floodplain Administrator shall inspect all Development to determine compliance with the requirements of this Chapter and the conditions of issued Floodplain Development Approvals.

Section 10-37. - Buildings, structures and facilities exempt from the *Florida Building Code*. The Floodplain Administrator shall inspect buildings, structures and facilities exempt from the *Florida Building Code* to determine compliance with the requirements of this Chapter and the conditions of issued Floodplain Development Approvals.

Section 10-38. - Buildings, structures and facilities exempt from the *Florida Building Code*, Lowest Floor inspection. Upon placement of the Lowest Floor, including Basement, and prior to further vertical construction, the owner of a building, structure or facility exempt from the *Florida Building Code*, or the owner's authorized agent, shall submit to the Floodplain Administrator the certification of elevation of the Lowest Floor prepared and sealed by a Florida licensed

professional surveyor.

Section 10-39. - Buildings, structures and facilities exempt from the *Florida Building Code*, final inspection. As part of the final inspection, the Applicant shall submit to the Floodplain Administrator a final certification of elevation of the Lowest Floor or final documentation of the height of the Lowest Floor above the Highest Adjacent Grade; such certifications and documentations shall be prepared as specified in Section 10-38 of this Chapter.

Section 10-40. - RESERVED.

DIVISION 7. - VARIANCES AND APPEALS

Section 10-41. - General. The Village Council shall hear and decide on requests for appeals and requests for Variances from the strict application of this Chapter. Pursuant to Section 117.1 of the *Florida Building Code*, the Village Council shall hear and decide on requests for appeals and requests for Variances from the strict application of the flood resistant construction requirements of the *Florida Building Code*. However, this section does not apply to Section 3109 of the *Florida Building Code, Building*.

Section 10-42. - Appeals. The Village Council shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Floodplain Administrator in the administration and enforcement of this Chapter. Any party in interest aggrieved by an order, decision or interpretation rendered by the Floodplain Administrator in the enforcement of the terms and provisions of this Chapter may file an appeal with the Building, Zoning, and Planning Director. The appeal shall be in writing, specifying the grounds thereof on forms as provided by the Building, Zoning, and Planning Department and shall be filed within 30 days of the date the administrative order, decision, or interpretation is rendered. Any person aggrieved by the Village Council's decision may appeal such decision to a court of competent jurisdiction, as provided by the Florida Rules of Appellate Procedure.

Section 10-43. - Limitations on authority to grant Variances. The Village Council shall base its decisions on Variances on technical justifications submitted by Applicants, the considerations for issuance in Section 10-47 of this Chapter, the conditions of issuance set forth in Section 10-48 of this Chapter, and the comments and recommendations of the Floodplain Administrator and the Building Official. The Village Council has the right to attach such conditions as it deems necessary to further the purposes and objectives of this Chapter.

Section 10-44. - RESERVED.

Section 10-45. - Historic buildings. A Variance is authorized to be issued for the repair, improvement, or rehabilitation of a historic building that is determined eligible for the exception to the flood resistant construction requirements of the *Florida Building Code, Existing Building*, Chapter 12 Historic Buildings, upon a determination that the proposed repair, improvement, or rehabilitation will not preclude the building's continued designation as a historic building and the Variance is the minimum necessary to preserve the historic character and design of the building. If the proposed work precludes the building's continued designation as a historic building, a

Variance shall not be granted and the building and any repair, improvement, and rehabilitation shall be subject to the requirements of the *Florida Building Code*.

Section 10-46. - Functionally Dependent Uses. A Variance is authorized to be issued for the construction or Substantial Improvement necessary for the conduct of a Functionally Dependent Use, as defined in this Chapter, provided the Variance is the minimum necessary considering the flood hazard, and all due consideration has been given to use of methods and materials that minimize flood damage during occurrence of the Base Flood.

Section 10-47. - Considerations for issuance of Variances. In reviewing requests for Variances, the Village Council shall consider all technical evaluations, all relevant factors, all other applicable provisions of the *Florida Building Code*, this Chapter, and the following:

- (1) The danger that materials and debris may be swept onto other lands resulting in further injury or damage;
- (2) The danger to life and property due to flooding or erosion damage;
- (3) The susceptibility of the proposed Development, including contents, to flood damage and the effect of such damage on current and future owners;
- (4) The importance of the services provided by the proposed Development to the Village;
- (5) The necessity of the facility to a waterfront location, in the case of a Functionally Dependent Use;
- (6) The availability of alternate locations for the proposed Development that are subject to lower risk of flooding or erosion;
- (7) The compatibility of the proposed Development with existing and anticipated Development;
- (8) The relationship of the proposed Development to the comprehensive plan and floodplain management program for the area;
- (9) The safety of access to the property in times of flooding for ordinary and emergency vehicles;
- (10) The expected heights, velocity, duration, rate of rise and debris and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and
- (11) The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, streets and bridges.

Section 10-48. - Conditions for issuance of Variances. Variances shall be issued only upon:

- (1) Submission by the Applicant, of a showing of good and sufficient cause that the unique characteristics of the size, configuration, or topography of the site limit compliance with any provision of this Chapter or the required elevation standards;
- (2) Determination by the Village Council that:

- (a) Failure to grant the Variance would result in exceptional hardship due to the physical characteristics of the land that render the lot undevelopable; increased costs to satisfy the requirements or inconvenience do not constitute hardship;
 - (b) The granting of a Variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, nor create nuisances, cause fraud on or victimization of the public or conflict with existing local laws and ordinances; and
 - (c) The Variance is the minimum necessary, considering the flood hazard, to afford relief;
- (3) The Variance, if granted, shall be recorded at the Applicant's expense in the Office of the Clerk of the Court in such a manner that it appears in the chain of title of the affected parcel of land; and
- (4) If the request is for a variance to allow construction of the lowest floor of a new building, or substantial improvement of a Building, below the required elevation, a copy in the record of a written notice from the Floodplain Administrator to the Applicant for the variance, specifying the difference between the Base Flood Elevation and the proposed elevation of the Lowest Floor, stating that the cost of federal flood insurance will be commensurate with the increased risk resulting from the reduced floor elevation (up to amounts as high as \$25 for \$100 of insurance coverage), and stating that construction below the Base Flood Elevation increases risks to life and property.

DIVISION 8. - VIOLATIONS

Section 10-49. - Violations. Any Development that is not within the scope of the *Florida Building Code* but that is regulated by this Chapter that is performed without an issued permit, that is in conflict with an issued permit, or that does not fully comply with this Chapter, including a violation of conditions and safeguards established in connection with grants of a Variance, shall be deemed a violation of this Chapter. A building or structure without the documentation of elevation of the Lowest Floor, other required design certifications, or other evidence of compliance required by this Chapter or the *Florida Building Code* is presumed to be a violation until such time as that documentation is provided.

Section 10-50. - Authority. For Development that is not within the scope of the *Florida Building Code* but that is regulated by this Chapter and that is determined to be a violation, the Floodplain Administrator is authorized to serve notices of violation or stop work orders to owners of the property involved, to the owner's agent, or to the person or persons performing the work.

Section 10-51. - Unlawful continuance. Any person who shall continue any work after having been served with a notice of violation or a stop work order, except such work as that person is directed to perform to remove or remedy a violation or unsafe condition, shall be subject to penalties as prescribed by law.

Section 10-52. – Penalty for Violation. Any person who violates this Chapter or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than \$500.00, and

in addition, shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense. Nothing contained in this section shall prevent the Village from taking such other lawful actions as are necessary to prevent or remedy any violation.

Sections 10-53-10-59. – RESERVED.

ARTICLE II. - DEFINITIONS

DIVISION 1. - GENERAL

Section 10-60. - Scope. Unless otherwise expressly stated, the following words and terms shall, for the purposes of this Chapter, have the meanings shown in this Article.

Section 10-61. - Terms defined in the *Florida Building Code*. Where terms are not defined in this Chapter and are defined in the *Florida Building Code*, such terms shall have the meanings ascribed to them in that code.

Section 10-62. - Terms not defined. Where terms are not defined in this Chapter or the *Florida Building Code*, such terms shall have ordinarily accepted meanings such as the context implies.

DIVISION 2. - DEFINITIONS

Section 10-63. - Definitions.

500-year Flood Elevation. The elevation of flooding having a 0.2-percent chance of being equaled or exceeded in any given year.

Appeal. A request for a review of the Floodplain Administrator's interpretation of any provision of this Chapter.

Applicant. A property owner or owner's authorized agent.

ASCE 24. A standard titled *Flood Resistant Design and Construction* that is referenced by the *Florida Building Code*. ASCE 24 is developed and published by the American Society of Civil Engineers, Reston, VA.

Base Flood. A flood having a 1-percent chance of being equaled or exceeded in any given year. The Base Flood is commonly referred to as the "100-year flood" or the "1-percent-annual chance flood."

Base Flood Elevation. The elevation of the Base Flood, including wave height, relative to the National Geodetic Vertical Datum (NGVD), North American Vertical Datum (NAVD) or other datum specified on the Flood Insurance Rate Map (FIRM). The Base Flood Elevations are indicated on the Village's Flood Insurance Rate Map (FIRM) and as otherwise provided in this Chapter.

Basement. The portion of a building having its floor subgrade (below ground level) on all sides.

Coastal A Zone. Flood hazard areas that have been delineated as subject to wave heights between 1 ½ feet (457 mm) and 3 feet (914 mm). Such areas are seaward of the Limit of Moderate Wave Action shown on the Flood Insurance Rate Map or within six hundred (600) feet of the inland boundary of the Coastal High Hazard Area (Zone V) boundary, whichever is most landward.

Coastal Construction Control Line. The line established by the State of Florida pursuant to section 161.053, F.S., and recorded in the official records of the Village, which defines that portion of the beach-dune system subject to severe fluctuations based on a 100-year storm surge, storm waves or other predictable weather conditions.

Coastal High Hazard Area. A Special Flood Hazard Area extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources. Coastal High Hazard Areas are also referred to as “high hazard areas subject to high velocity wave action” or “V Zones” and are designated on Flood Insurance Rate Maps (FIRM) as Zone V1-V30, VE, or V.

Critical Facility. A facility for which even a slight chance of flooding might be too great. Critical facilities include, but are not limited to schools, nursing homes, hospitals, police, fire and emergency response installations, installations which produce, use or store hazardous materials or hazardous waste. The term includes facilities that are assigned Risk Category III and Risk Category IV pursuant to the Florida Building Code, Building.

Declaration of Land Restriction (Nonconversion Agreement). A form provided by the Floodplain Administrator to be signed by the property owner and recorded in the chain of title for the subject property in the Official Records of the Clerk of Court, wherein the property owner agrees not to convert or modify in any manner that is inconsistent with the terms of the building permit and this Chapter, enclosures below elevated buildings or structures.

Design Flood. The flood associated with the greater of the following two areas:

- (1) Area with a floodplain subject to a 1-percent or greater chance of flooding in any year; or
- (2) Area designated as a flood hazard area on the Village’s flood hazard map, or otherwise legally designated.

Design Flood Elevation. The elevation of the “Design Flood,” including wave height, relative to the datum specified on the Village’s legally designated flood hazard map. In areas designated as Zone AO, the Design Flood Elevation shall be the elevation of the highest existing grade of the building’s perimeter plus the depth number (in feet) specified on the flood hazard map. In areas designated as Zone AO where the depth number is not specified on the map, the depth number shall be taken as being equal to 2 feet.

Development. Any man-made change to improved or unimproved real estate, including but not limited to, buildings or other structures, tanks, temporary structures, temporary or permanent storage of equipment or materials, mining, dredging, filling, grading, paving, excavations, drilling operations or any other land disturbing activities.

Existing Building and Existing Structure. Any buildings and structures for which the “Start of Construction” commenced before on or before January 29, 1972.

Federal Emergency Management Agency (FEMA). The federal agency that, in addition to carrying out other functions, administers the National Flood Insurance Program.

Flood or Flooding. A general and temporary condition of partial or complete inundation of normally dry land from:

- (1) The overflow of inland or tidal waters;
- (2) Abnormally high tidal water or rising coastal waters resulting from severe storms or hurricanes; or
- (3) The unusual and rapid accumulation or runoff of surface waters from any source.

Flood damage-resistant materials. Any construction material capable of withstanding direct and prolonged contact with floodwaters without sustaining any damage that requires more than cosmetic repair.

Flood hazard area. The greater of the following two areas:

- (1) The area within a floodplain subject to a 1-percent or greater chance of flooding in any year.
- (2) The area designated as a flood hazard area on the Village's flood hazard map, or otherwise legally designated.

Flood Insurance Rate Map (FIRM). The official map of the Village on which the Federal Emergency Management Agency has delineated both Special Flood Hazard Areas and the risk premium zones applicable to the Village.

Flood Insurance Study (FIS). The official report provided by the Federal Emergency Management Agency that contains the Flood Insurance Rate Map, the Flood Boundary and Floodway Map (if applicable), the water surface elevations of the Base Flood, and supporting technical data.

Floodplain Administrator. The office or position designated and charged with the administration and enforcement of this Chapter (may be referred to as the Floodplain Manager).

Floodplain Development permit or approval. An official document or certificate issued by the Village, or other evidence of approval or concurrence, which authorizes performance of specific Development activities that are located in flood hazard areas and that are determined to be compliant with this Chapter.

Florida Building Code. The family of codes adopted by the Florida Building Commission, as amended through the local technical amendments of Article III "Florida Building Code" of Chapter 8 "Building Code" of the Miami-Dade County Code of Ordinances, including: *Florida Building Code, Building*; *Florida Building Code, Residential*; *Florida Building Code, Existing Building*; *Florida Building Code, Mechanical*; *Florida Building Code, Plumbing*; *Florida Building Code, Fuel Gas*.

Functionally Dependent Use. A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water, including only docking facilities, port facilities

that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities; the term does not include long-term storage or related manufacturing facilities.

Highest Adjacent Grade. The highest natural elevation of the ground surface prior to construction next to the proposed walls or foundation of a structure.

Historic Structure. Any structure that is determined eligible for the exception to the flood hazard area requirements of the *Florida Building Code, Existing Building*, Chapter 12 Historic Buildings.

Letter of Map Change (LOMC). An official determination issued by FEMA that amends or revises an effective Flood Insurance Rate Map or Flood Insurance Study. Letters of Map Change include:

Letter of Map Amendment (LOMA): An amendment based on technical data showing that a property was incorrectly included in a designated Special Flood Hazard Area. A LOMA amends the current effective Flood Insurance Rate Map and establishes that a specific property, portion of a property, or structure is not located in a Special Flood Hazard Area.

Letter of Map Revision (LOMR): A revision based on technical data that may show changes to flood zones, flood elevations, Special Flood Hazard Area boundaries and floodway delineations, and other planimetric features.

Letter of Map Revision Based on Fill (LOMR-F): A determination that a structure or parcel of land has been elevated by fill above the Base Flood Elevation and is, therefore, no longer located within the Special Flood Hazard Area. In order to qualify for this determination, the fill must have been permitted and placed in accordance with the Village's floodplain management regulations.

Conditional Letter of Map Revision (CLOMR): A formal review and comment as to whether a proposed flood protection project or other project complies with the minimum NFIP requirements for such projects with respect to delineation of Special Flood Hazard Areas. A CLOMR does not revise the effective Flood Insurance Rate Map or Flood Insurance Study; upon submission and approval of certified as-built documentation, a Letter of Map Revision may be issued by FEMA to revise the effective FIRM.

Light-duty Truck. As defined in 40 C.F.R. 86.082-2, any motor vehicle rated at 8,500 pounds Gross Vehicular Weight Rating or less which has a vehicular curb weight of 6,000 pounds or less and which has a basic vehicle frontal area of 45 square feet or less, which is:

- (1) Designed primarily for purposes of transportation of property or is a derivation of such a vehicle, or
- (2) Designed primarily for transportation of persons and has a capacity of more than 12 persons; or
- (3) Available with special features enabling off-street or off-highway operation and use.

Lowest Floor. The lowest floor of the lowest enclosed area of a building or structure, including Basement, but excluding any unfinished or flood-resistant enclosure, other than a Basement, usable solely for vehicle parking, building access or limited storage provided that such enclosure is not built so as to render the structure in violation of the non-elevation requirements of the *Florida Building Code* or ASCE 24.

Mangrove Stand. An assemblage of mangrove trees which consist of one or more of the following species: black mangrove (*Avicennia Germinans*); red mangrove (*Rhizophora Mangle*); white mangrove (*Languncularia Racemosa*) and buttonwood (*Conocarpus Erecta*).

Market Value. The price at which a property will change hands between a willing buyer and a willing seller, neither party being under compulsion to buy or sell and both having reasonable knowledge of relevant facts. As used in this Chapter, the term refers to the market value of buildings and structures, excluding the land and other improvements on the parcel. Market Value may be established by a qualified independent appraiser using the comparative sales method, Actual Cash Value (replacement cost depreciated for age and quality of construction), or tax assessment value adjusted to approximate market value by a factor provided by the Property Appraiser.

New Construction. For the purposes of administration of this Chapter and the flood resistant construction requirements of the *Florida Building Code*, structures for which the “Start of Construction” commenced on or after January 29, 1972 and includes any subsequent improvements to such structures.

Nonresidential. Any building or structure or portion thereof that is not classified residential in accordance with the Florida Building Code, Building (Residential Group R or Institutional Group I) and ASCE 24.

Recreational Vehicle. A vehicle which is:

- (1) Built on a single chassis;
- (2) Four hundred (400) square feet or less when measured at the largest horizontal projection;
- (3) Designed to be self-propelled or permanently towable by a Light-duty Truck; and
- (4) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

Sand Dunes. Naturally occurring accumulations of sand in ridges or mounds landward of the beach.

Special Flood Hazard Area. An area in the floodplain subject to a 1 percent or greater chance of flooding in any given year. Special Flood Hazard Areas are shown on FIRMs as Zone A, AO, A1-A30, AE, A99, AH, V1-V30, VE or V.

Start of Construction. The date permits are issued for New Construction and Substantial Improvements, provided the actual Start of Construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement is within 180 days of the date of the issuance of the permit. The actual Start of Construction means either the first placement of permanent construction of a building on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation.

Permanent construction does not include land preparation (such as clearing, grading, or filling), the installation of streets or walkways, excavation for a Basement, footings, piers, or foundations, the erection of temporary forms or the installation of accessory buildings such as

garages or sheds not occupied as dwelling units or not part of the main buildings. For a Substantial Improvement, the actual "Start of Construction" means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

Substantial Damage. Damage of any origin sustained by a building or structure whereby the cost of restoring the building or structure to its before-damaged condition would equal or exceed 50-49 percent of the Market Value of the building or structure before the damage occurred.

Substantial Improvement. Any combination of repair, reconstruction, rehabilitation, alteration, addition, or other improvement of a building or structure, taking place during a 1 year period, the cumulative the cost of which equals or exceeds 50-49 percent of the Market Value of the building or structure before the Start of Construction improvement or repair is started. For each building or structure, the 1 year period begins on the date of the first permit issued for improvement or repair of that building or structure subsequent to three (3) months from the date this Ordinance is adopted. This term includes structures that have incurred "Substantial Damage," regardless of the actual repair work performed. The term does not, however, include either:

- (1) Any project for improvement of a building required to correct existing health, sanitary, or safety code violations identified by the building official and that are the minimum necessary to assure safe living conditions; or
- (2) Any alteration of a Historic Structure, provided the alteration will not preclude the structure's continued designation as a Historic Structure.

Variance. A grant of relief from the requirements of this Chapter, or the flood resistant construction requirements of the *Florida Building Code*, which permits construction in a manner that would not otherwise be permitted by this Chapter or the *Florida Building Code*.

Sections 10-64 – 10-70. RESERVED.

ARTICLE III FLOOD RESISTANT DEVELOPMENT

DIVISION 1. - BUILDINGS AND STRUCTURES

Section 10-71. - Design and construction of buildings, structures and facilities exempt from the *Florida Building Code*. Pursuant to Section 10-25 of this Chapter, buildings, structures, and facilities that are exempt from the *Florida Building Code*, including Substantial Improvement or repair of Substantial Damage of such buildings, structures and facilities, shall be designed and constructed in accordance with the Flood load and Flood resistant construction requirements of ASCE 24. Structures exempt from the *Florida Building Code* that are not walled and roofed buildings shall comply with the requirements of Division 7 of this Article.

Section 10-72. - Buildings and structures seaward of the Coastal Construction Control Line. If extending, in whole or in part, seaward of the Coastal Construction Control Line and also located, in whole or in part, in a Flood Hazard Area:

- (1) Buildings and structures shall be designed and constructed to comply with the more restrictive applicable requirements of the Village Comprehensive Plan, *Florida Building Code*, Building Section 3109 and Section 1612 or *Florida Building Code*, Residential Section R322; and
- (2) Minor structures and non-habitable major structures as defined in section 161.54, F.S., shall be designed and constructed to comply with the intent and applicable provisions of this Chapter and ASCE 24.

Section 10-73. Specific methods of construction and requirements. The following specific methods of construction and requirements apply in the Village:

- (1) Cumulative Lower Substantial Improvement. In the *Florida Building Code*, Building, and *Florida Building Code*, Existing Building, definitions for the terms "Substantial Damage" and "Substantial Improvement" shall be as follows: provided in Section 10-63.

~~SUBSTANTIAL IMPROVEMENT. Any combination of repair, reconstruction, rehabilitation, addition, or other improvement of a building or structure taking place during a 1 year period, the cumulative cost of which equals or exceeds 50 percent of the Market Value of the building or structure before the improvement or repair is started. For each building or structure, the 1 year period begins on the date of the first improvement or repair of that building or structure subsequent to three (3) months after the date this ordinance is adopted. If the structure has incurred "Substantial Damage," any repairs are considered Substantial Improvement regardless of the actual repair work performed. The term does not, however, include either:~~

- ~~(1) Any project for improvement of a building required to correct existing health, sanitary, or safety code violations identified by the building official and that are the minimum necessary to assure safe living conditions;~~
- ~~(2) Any alteration of a Historic Structure provided the alteration will not preclude the structure's continued designation as a Historic Structure.~~

- (2) Limits on Enclosures. For residential buildings one- and two-family dwellings in flood hazard areas, the following limitations apply to enclosed areas below elevated buildings:
- Access shall be the minimum necessary to allow for only parking of vehicles (garage door), limited storage of maintenance equipment in connection with the premises (standard exterior door), or entry to the living area (stairway or elevator).
 - The interior portion shall not be finished or partitioned into separate rooms.
- (3) Additional Elevation (Freeboard).
- One- and Two-Family Dwellings, New Construction. One- and two-family dwellings, shall be developed in accordance with the minimum elevation requirements of the Florida Building Code, plus one foot. For new construction of one- and two-family dwellings, the minimum elevation of the lowest floor or the bottom of the lowest horizontal structural member, as applicable to the flood zone, shall be to or above the base flood elevation as provided in the Florida Building Code, Residential, plus one (1) foot.
 - One- and Two-Family Dwellings, Substantial Improvement/Damage. For substantial improvement of one- and two-family dwellings, the minimum elevation of the lowest floor or the bottom of the lowest horizontal structural member, as applicable to the flood zone, shall be to or above the base flood elevation as provided in the Florida Building Code, Residential.
 - Developments Other Than One- and Two-Family Dwellings. All developments other than one- and two-family dwellings shall be developed in accordance with the minimum elevation requirements of the Florida Building Code, plus two feet.
 - c. Critical Facilities. All Critical Facilities shall be elevated or protected to or above the minimum elevation requirements of the Florida Building Code or the 500-year flood elevation plus one foot, whichever is higher.
- (4) Site Plans. Site plans shall have sufficient evidence to demonstrate:
- Street flooding and local drainage from and onto adjoining properties is accounted for and will not affect the proposed building; and
 - Positive drainage away from the building is directed to an approved point of collection that does not create a hazard or problem on adjoining properties.
- (5) Foundation Design Requirements, One- and Two-Family Dwellings. Construction documents shall include documentation, prepared and sealed by a registered design professional, that the foundation design accounts for site-specific flood loads.

DIVISION 2. - SUBDIVISIONS

Section 10-74 - Minimum requirements. Subdivision proposals shall be reviewed to determine that:

- Such proposals are consistent with the need to minimize Flood damage and will be reasonably safe from Flooding;
- All public utilities and facilities such as sewer, gas, electric, communications, and water systems are located and constructed to minimize or eliminate Flood damage; and

- (3) Adequate drainage is provided to reduce exposure to Flood hazards; in Zones AH and AO, adequate drainage paths shall be provided to guide Floodwaters around and away from proposed structures.

Section 10-75 - Subdivision plats. Where any portion of proposed subdivisions lies within a Flood hazard area, the following shall be required:

- (1) Delineation of Flood Hazard Areas, Floodway boundaries and Flood zones, and Design Flood Elevations, as appropriate, shall be shown on preliminary plats; and
- (2) Compliance with the site improvement and utilities requirements of Division 3 of this Article.

DIVISION 3. - SITE IMPROVEMENTS, UTILITIES AND LIMITATIONS

Section 10-76. - Minimum requirements. All proposed new Development shall be reviewed to determine that:

- (1) Such proposals are consistent with the need to minimize Flood damage and will be reasonably safe from Flooding;
- (2) All public utilities and facilities such as sewer, gas, electric, communications, and water systems are located and constructed to minimize or eliminate Flood damage; and
- (3) Adequate drainage is provided to reduce exposure to Flood hazards; in Zones AH and AO, adequate drainage paths shall be provided to guide floodwaters around and away from proposed structures.

Section 10-77. - Sanitary sewage facilities. All new and replacement sanitary sewage facilities, private sewage treatment plants (including all pumping stations and collector systems), and on-site waste disposal systems shall be designed in accordance with the standards for onsite sewage treatment and disposal systems in Chapter 64E-6, F.A.C. and ASCE 24 Chapter 7 to minimize or eliminate infiltration of floodwaters into the facilities and discharge from the facilities into Flood waters, and impairment of the facilities and systems.

Section 10-78. - Water supply facilities. All new and replacement water supply facilities shall be designed in accordance with the water well construction standards in Chapter 62-532.500, F.A.C. and ASCE 24 Chapter 7 to minimize or eliminate infiltration of floodwaters into the systems.

Section 10-79. - Limitations on placement of fill. Subject to the limitations of this Chapter, fill shall be designed to be stable under conditions of flooding including rapid rise and rapid drawdown of floodwaters, prolonged inundation, and protection against flood-related erosion and scour. In addition to these requirements, if intended to support buildings and structures (Zone A only), fill shall comply with the requirements of the *Florida Building Code*.

Section 10-80. - Limitations on sites in Coastal High Hazard Areas (Zone V) and Coastal A Zones. In Coastal High Hazard Areas and Coastal A Zones, alteration of Sand Dunes and Mangrove Stands shall be permitted only if such alteration is approved by the Florida Department of Environmental Protection and only if the engineering analysis required by Section 10-33 of this

Chapter demonstrates that the proposed alteration will not increase the potential for flood damage. Construction or restoration of dunes under or around elevated buildings and structures shall comply with Section 10-100(3) of this Chapter.

DIVISION 4. - RESERVED

Sections 10-81 – 10-89. RESERVED

DIVISION 5. - RECREATIONAL VEHICLES

Section 10-90. - Temporary placement. Recreational Vehicles placed temporarily in flood hazard areas shall:

- (1) Be on the site for fewer than 180 consecutive days; or
- (2) Be fully licensed and ready for highway use, which means the Recreational Vehicle is on wheels or jacking system, is attached to the site only by quick-disconnect type utilities and security devices, and has no permanent attachments such as additions, rooms, stairs, decks and porches.

Section 10-91. - Permanent placement. Recreational Vehicles that do not meet the limitations in Section 10-90 of this Chapter for temporary placement are prohibited.

DIVISION 6. - TANKS

Section 10-92. - Underground tanks. Underground tanks in Flood Hazard Areas shall be anchored to prevent flotation, collapse or lateral movement resulting from hydrodynamic and hydrostatic loads during conditions of the Design Flood, including the effects of buoyancy assuming the tank is empty.

Section 10-93. - Above-ground tanks, not elevated. Above-ground tanks that do not meet the elevation requirements of Section 10-94 of this Chapter shall:

- (1) Be permitted in flood hazard areas (Zone A) other than Coastal High Hazard Areas and Coastal A Zones, provided the tanks are anchored or otherwise designed and constructed to prevent flotation, collapse or lateral movement resulting from hydrodynamic and hydrostatic loads during conditions of the Design Flood, including the effects of buoyancy assuming the tank is empty and the effects of flood-borne debris.
- (2) Not be permitted in Coastal High Hazard Areas (Zone V) or Coastal A Zones.

Section 10-94. - Above-ground tanks, elevated. Above-ground tanks in flood hazard areas shall be attached to and elevated to or above the Design Flood Elevation on a supporting structure that is designed to prevent flotation, collapse or lateral movement during conditions of the Design Flood. Tank-supporting structures shall meet the foundation requirements of the applicable flood hazard area.

Section 10-95. - Tank inlets and vents. Tank inlets, fill openings, outlets and vents shall be:

- (1) At or above the Design Flood Elevation or fitted with covers designed to prevent the inflow

of floodwater or outflow of the contents of the tanks during conditions of the Design Flood;
and

- (2) Anchored to prevent lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the Design Flood.

DIVISION 7. - OTHER DEVELOPMENT

Section 10-96. - General requirements for other Development. All Development, including man-made changes to improved or unimproved real estate for which specific provisions are not specified in this Chapter or the *Florida Building Code*, shall:

- (1) Be located and constructed to minimize flood damage;
- (2) Be anchored to prevent flotation, collapse or lateral movement resulting from hydrostatic loads, including the effects of buoyancy, during conditions of the Design Flood;
- (3) Be constructed of flood damage-resistant materials; and
- (4) Have mechanical, plumbing, and electrical systems above the Design Flood Elevation or meet the requirements of ASCE 24, except that minimum electric service required to address life safety and electric code requirements is permitted below the Design Flood Elevation provided it conforms to the provisions of the electrical part of building code for wet locations.

Section 10-97. - Concrete slabs used as parking pads, enclosure floors, landings, decks, walkways, patios and similar nonstructural uses in Coastal High Hazard Areas (Zone V) and Coastal A Zones. In coastal high hazard areas and Coastal A Zones, concrete slabs used as parking pads, enclosure floors, landings, decks, walkways, patios and similar nonstructural uses are permitted beneath or adjacent to buildings and structures provided the concrete slabs are designed and constructed to be:

- (1) Structurally independent of the foundation system of the building or structure;
- (2) Frangible and not reinforced, so as to minimize debris during flooding that is capable of causing significant damage to any structure; and
- (3) Have a maximum slab thickness of not more than four (4) inches.

Section 10-98. - Decks and patios in Coastal High Hazard Areas (Zone V) and Coastal A Zones. In addition to the requirements of the *Florida Building Code*, in Coastal High Hazard Areas and Coastal A Zones, decks and patios shall be located, designed, and constructed in compliance with the following:

- (1) A deck that is structurally attached to a building or structure shall have the bottom of the lowest horizontal structural member at or above the Design Flood Elevation and any supporting members that extend below the Design Flood Elevation shall comply with the foundation requirements that apply to the building or structure, which shall be designed to accommodate any increased loads resulting from the attached deck.
- (2) A deck or patio that is located below the Design Flood Elevation shall be structurally independent from buildings or structures and their foundation systems, and shall be

designed and constructed either to remain intact and in place during Design Flood conditions or to break apart into small pieces to minimize debris during flooding that is capable of causing structural damage to the building or structure or to adjacent buildings and structures.

- (3) A deck or patio that has a vertical thickness of more than twelve (12) inches or that is constructed with more than the minimum amount of fill necessary for site drainage shall not be approved unless an analysis prepared by a qualified registered design professional demonstrates no harmful diversion of floodwaters or wave runup and wave reflection that would increase damage to the building or structure or to adjacent buildings and structures.
- (4) A deck or patio that has a vertical thickness of twelve (12) inches or less and that is at natural grade or on nonstructural fill material that is similar to and compatible with local soils and is the minimum amount necessary for site drainage may be approved without requiring analysis of the impact on diversion of floodwaters or wave runup and wave reflection.

Section 10-99. - Other Development in Coastal High Hazard Areas (Zone V) and Coastal A Zones. In coastal high hazard areas and Coastal A Zones, Development activities other than buildings and structures shall be permitted only if also authorized by the appropriate federal, state or local authority; if located outside the footprint of, and not structurally attached to, buildings and structures; and if analyses prepared by qualified registered design professionals demonstrate no harmful diversion of floodwaters or wave runup and wave reflection that would increase damage to adjacent buildings and structures. Such other Development activities include but are not limited to:

- (1) Bulkheads, seawalls, retaining walls, revetments, and similar erosion control structures;
- (2) Solid fences and privacy walls, and fences prone to trapping debris, unless designed and constructed to fail under flood conditions less than the Design Flood or otherwise function to avoid obstruction of floodwaters; and
- (3) On-site sewage treatment and disposal systems defined in 64E-6.002, F.A.C., as filled systems or mound systems.

Section 10-100. - Nonstructural fill in Coastal High Hazard Areas (Zone V) and Coastal A Zones. In Coastal High Hazard Areas and Coastal A Zones:

- (1) Minor grading and the placement of minor quantities of nonstructural fill shall be permitted for landscaping and for drainage purposes under and around buildings.
- (2) Nonstructural fill with finished slopes that are steeper than one unit vertical to five units horizontal shall be permitted only if an analysis prepared by a qualified registered design professional demonstrates no harmful diversion of floodwaters or wave runup and wave reflection that would increase damage to adjacent buildings and structures.
- (3) Where authorized by the Florida Department of Environmental Protection or applicable local approval, sand dune construction and restoration of Sand Dunes under or around elevated buildings are permitted without additional engineering analysis or certification of the diversion of floodwater or wave runup and wave reflection if the scale and location of

the dune work is consistent with local beach-dune morphology and the vertical clearance is maintained between the top of the sand dune and the lowest horizontal structural member of the building.

ARTICLE IV DISPOSITION OF RAINWATER AND LIQUID WASTES

Section 10-101. – Disposition of Rainwater and Liquid Wastes. Rainwater or other liquid wastes from any premises shall be disposed of where same originates or falls. The disposal of any rainwater or other liquid wastes by causing or allowing same to be disposed of or flow on or across any adjoining property or sidewalk, either public or private, shall be deemed a nuisance, and shall be corrected by properly disposing of same.